

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE *TA No. 1119/87*
W.P. No 655/83 OF

NAME OF THE PARTIES *Bryan Singh* Applicant

Versus

O.O.I. Saini Respondent

Part A.

Sl.No.	Description of documents	Page
1	order sheet	A1
2	Judgment order dt 16-8-90 index sheet	A2 to A4 A5
3	Writ Petition / Annexure.	A6 to A31
4	Power	A32
5	Application for stay	A33 to A48
6	Appli. for stay CM.No. 1380	A49 to A50
7	High Court NO 663	A51 to A53
8	Recd.	A54
9	CA.	A55 to A62
10	RA.	A63 to A99
11	Appli. / Delay CM.No. 4926	A100 to A105
12	Application Interim relief	A106 to A111
13	Index sheet	A112
14		
15		
16		
17		
18		

CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

This file received from record room without error,

check on Dated *05/12/11*.....

Counter Signed.....

Rajesh
14/12/2011
Section Officer/In charge

Signature of the
Dealing Assistant

INDEX SHEET

ANNEXURE -A

CAT

CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench, Lucknow
Opp. Residency, Gandhi Bhawan, Lucknow

INDEX SHEET

CAUSE TITLE T.A No. 1119 of 1987

NAME OF THE PARTIES _____

Gyan Singh Applicant

Versus

Union of India Respondent

Part A, B & C

Sl.No.	Description of documents	PAGE
1	Order sheet	A-1
2	Judgement	A2-H4
3	Index sheet	A5-A6
4	Petition	A7-A16
5	Annexure	A17-A52
6	counter	A53-A59
6	Re pointer	A60-A94
7	copy for o. parties	A98-A132
9	Misc. paper	A133-A148
10	B file copy	B149-B221
11	C file copy	C222-C223

Annexure -B

CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench, Lucknow
Opp. Residency, Gandhi Bhawan, Lucknow

APPLICATION No. _____ of 19

TRANSFER APPLICATION No. _____ of 19

OLD WRIT PETITION No.: _____ of

CERTIFICATE

Certified that no further action is required to taken
and that the case is fit for consignment to the record room (decided).

Dated :

COUNTER SIGNED :



Signature of the
dealing Assistant

Section Officer/Court Officer

TA 1119/07 (T)

:: 2 :: WP 655-03

A₁

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
4.12.89	<p>Hon. Justice K. Nalk, V.C. Hon. K. J. Raman, A.M.</p> <p>None of the parties is present to-day. It appears that notices were issued by the Attached Office of this Tribunal to the parties' counsel for to-day. As a matter of extra precaution notices be issued afresh to the parties as well as their counsel fixing 1.1.90 for appearance and orders.</p> <p><i>Noted for 1/1/90 Silem 19/12/89 h.</i></p> <p><i>OR A.M.</i></p>	<p><i>OR</i></p> <p>Case has been recd. on 20.0.89.</p> <p>Case is admitted. CA/RA has filed.</p> <p>Date was fixed from CAT, A.M.</p> <p>It is attached submitted for order.</p> <p><i>1/1/90</i></p>
1/1/90.	<p>Hon. Justice K. Nalk, V.C. Hon. K. Obayya, A.M.</p> <p>Sri Ajay Bhargava is present on behalf of opposite parties. No one is present on behalf of the applicant. Notices by registered post ^{was} issued to the applicant as well as to his counsel on 20-12-89. They are likely to have been served. The case be listed for final hearing on 5/2/90 as it is ready in all respects.</p> <p><i>h A.M.</i></p> <p><i>h V.C.</i></p> <p><i>5-2-90 Dinesh</i></p> <p>No sitting Adj & 16.3.90</p>	<p><i>OR</i></p> <p>Notices were issued on 20.12.89.</p> <p>No undelivered. rpt. Case has been taken back.</p> <p>submitted for order.</p> <p><i>21-12-89</i></p> <p><i>OR</i></p> <p>Notices were issued on 20.12.89.</p> <p>No undelivered. rpt. Case has been taken back.</p> <p>submitted for order.</p> <p><i>h 1/1/90</i></p> <p><i>OR</i></p> <p>S.F.H.</p> <p><i>h 13/1</i></p>
16/3/90.	<p>No sitting of D/B. Adj. to 10/7/90</p>	<p><i>OR</i></p> <p>B.O.C.</p> <p><i>16/3/90</i></p>

11/19/87(1)

10-7-90

no sitting sd/ to 18/0

[Signature]

OR

SPH

140

[Signature]
29/8/90

Rickie copy

B.K. Werner

Card of

Sri DS Chauhan

27-8-90

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH

LUCKNOW

Transfer Application No. 1119 of 1987 (T)

(Writ petition no. 655 of 1983)

Date: 16-8-1990

Gyan Singh

... Petitioner

Vs.

Union of India & others

... Opp. Parties

J U D G M E N T

Hon'ble Mr. P. Srinivasan, AM

Hon'ble Mr. JP Sharma, JM

(Delivered by Hon'ble P. Srinivasan, AM)

This is a transfer application originally filed as writ petition no. 655 of 1983 before the Lucknow Bench of the Allahabad High Court.

When M today, 2. Case is called out, None appeared for the applicant. Mr. Siddhartha Verma and Mr. Arjun Bhargava appeared for the respondents. This application came before another bench of this Tribunal on 1-1-1990 after issue of notices to the parties. Notice to the applicant was issued on 20-12-1989 by registered post, and H but has not been returned unserved. However, nobody appeared for the applicant on 1-1-1990, while Mr. Arjun Bhargava appeared on behalf of the respondents. The case was, therefore, adjourned and has come before us today. Even today none appears for the applicant even though the case was called out several times. Since notice was issued to the applicant

P. Srinivasan

by registered post and has not been so far returned, we have to presume that it has been served. Moreover, on perusing the application and hearing the counsel for the respondents, it seems to us that the applicant is not interested in pursuing the application. The applicant, who was working as Assistant Controller of Stores at Lucknow, when the application was originally filed, complains in the application that while his juniors were promoted to the senior scale of Class-I in 1982, he i.e. the applicant has been passed over for such promotion. It appears that certain adverse remarks were recorded in the applicant's character roll for 1980 and 1981. Subsequently the adverse entry of 1981, we are told, was expunged by the Reporting authority, while the applicant's representation against the adverse remark for 1980 was rejected as being time barred. On 28-9-1985 Hon'ble Mr. Justice U.C. Srivastava passed an interim order in which he noticed that the adverse entries against the petitioner had been expunged. He further directed that if the applicant had been denied promotion solely on the ground of adverse entries, the matter should be re-considered. It is likely that in the light of this order, the respondents have taken such steps to redress the grievances of the applicant and that is why the applicant has not shown any interest in the litigation and has not taken care to ascertain the present position of the case even though he filed the writ petition as far back as 7 years ago. We are, therefore, of the view that the applicant is no longer interested in pursuing the application.

P. S. - 62

3. The application is, therefore, dismissed for non prosecution. ^M~~Any~~ relief that may have been given to the applicant as a result of the order of the High Court dated 28-9-1985 shall not be withdrawn by the respondents.

The parties ^M~~are~~ to bear their own costs.

John
MEMBER (J) 16/8/90

P. S. L.
MEMBER (A) 16/8/90

ES/

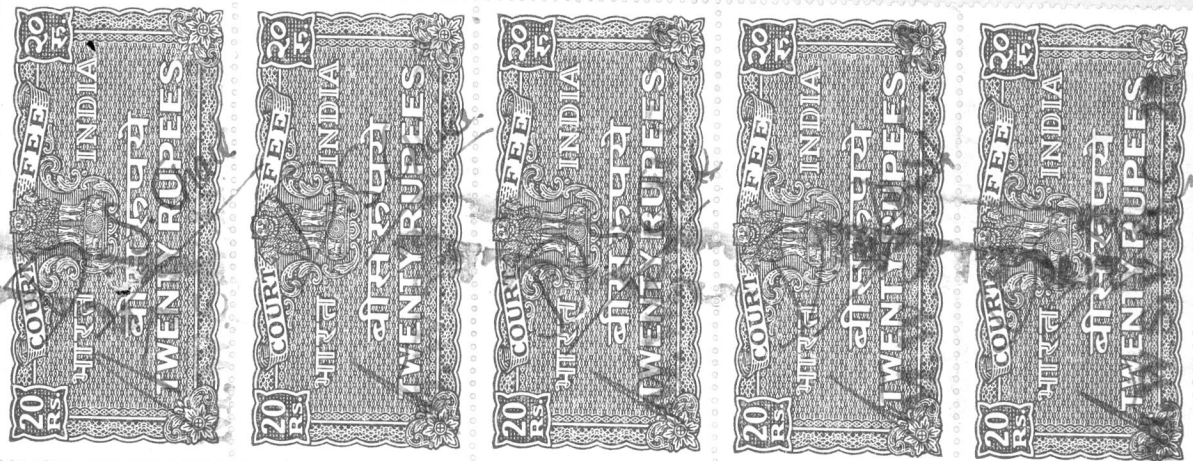
A7

In the Hon'ble High Court of Judicature at Allahabad,

Lucknow Bench, Lucknow.

655
Civil Misc. Writ Petition No.

of 1983.



Gyan Singh, aged about 29 years,
S/o. Shri Durjan Singh,
Assistant Controller of Stores,
Northern Railways, working at
Alambagh General Stores Depot.,
Lucknow.

...

Petitioner.

Vs.

1. Union of India through
Secretary, Ministry of Railways,
Rail Bhawan, Parliament Street,
New Delhi.
2. Northern Railways, through
General Manager, Hqr. N. Railways,
Baroda House, New Delhi.

...

Respondents.

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

To,

The Hon'ble Chief Justice and his other companion Judges of
this Hon'ble Court.

The petitioner named above most respectfully begs to state
as under :-

1. That this writ petition is directed against withholding of
promotion of the petitioner from junior scale to senior scale in

Class -I Indian Railways Stores Services.

2- That the petitioner was recruited through the Union Public Service Commission for appointment in Indian Railways Stores Services. He was subsequently given appointment in junior scale of Class -I with effect from 29.11.1977.

3- That the petitioner remained in training and was, thereafter, given working post on 29.5.1979 as Assistant Controller of Stores, Electric Traction Depot., Northern Railway, Kanpur.

4- That the petitioner continued to hold the post of Assistant Controller of Stores in Electric Traction Depot, Northern Railway, Kanpur upto 6.4.1981 and was, thereafter, transferred to Lucknow as Assistant Controller of Stores, Northern Railway, Charbagh, Lucknow.

5- That the petitioner was subsequently given charge of Asstt. Controller of Stores, Northern Railway, Alambagh, Lucknow where he is still working.

6- That the next promotion of officers in junior scale of Class -I is made to senior scale in the same class for which the selection is made on the principle of seniority subject to rejection of unfit.

7- That as per directions contained in letter No. E(O) III-74/PN6/165 dated 29.12.1978 from Under Secretary, Railway Board to the General Managers, all Indian Railways and to others, appointments to post in Class -I senior scale are required to be made by promotion in order of seniority subject to rejection of unfit, of officers ordinarily with not less than 4 years of service in Class -I Junior Scale. A true copy of the aforesaid letter is enclosed as Annexure -1. to this Writ Petition

G.I.

8. That Shri R.C. Jat was given appointment in Junior Scale of Class -I after one year of the appointment of the petitioner in Junior Scale and therefore, he is junior to the petitioner.

9. That the petitioner was entitled for promotion in Senior Scale of Class -I in March, 1982 when his junior Shri R.C. Jat was given promotion in Senior Scale of Class -I by the respondent no.2 vide his Order No.940-E/18-X-EA dated 20.3.1982. An extract true copy of the said order is enclosed as Annexure -2, to this Writ Petition.

10. That ~~xxx~~ at the time of his promotion from Junior Scale to Senior Scale in March, 1982, Shri R.C. Jat had not completed 4 years service and even then he was given promotion in preference to the petitioner who, although senior, has been discriminated and left over arbitrarily and illegally.

11. That in respect of consideration for promotion in the cases of these officers against whom there is any complaint which is subject matter of preliminary/fact finding enquiry it is provided in the Railway Board circular letter No.E(D & A)71 RGS-23 dated 29.1.1972 that the mere fact that ~~th~~ some enquiries are being made against the officer departmentally or by S.P.E. should not stand in the way of his promotion, if he is otherwise fit for promotion. The relevant extract from the aforesaid Railways Board directions is reproduced below :-

" (x) The mere fact that complaints have been received against a railway servant and some inquiries are being made against him departmentally or by S.P.E. , should not stand in the way of his promotion, if he is otherwise eligible for promotion. The intention is that promotion due should not be accorded to a person who is under suspension or against whom disciplinary proceedings for the imposition of a major penalty have been initiated or are

proposed to be initiated, till the finalization of the proceedings against him, this should be resorted to only in those cases where the disciplinary authority comes to the conclusion that a prima facies case has been established against a railway servant as a result of a fact finding inquiry or otherwise and he has either been placed under suspension or departmental proceedings for the imposition of a major penalty have been initiated or are proposed to be initiated against him. In cases where a preliminary report is received from the S.P.E. or Vigilance, the disciplinary authority should take a decision expeditiously whether or not to initiate disciplinary proceeding against the railway servant concerned. "

8 14/11

12. That in regard to the consideration of adverse entries in the matter of promotion it is well recognised principle of law that no adverse entry can be acted upon unless the same has been communicated to the Government servant according to law, the opportunity for representation has been given and representation, if any, has been considered and finally decided. Therefore, if there is any adverse entry in the character roll which has not been communicated to the government servant according to rule, the same cannot be deemed as absolute and final so as to be taken into account in the matter of promotion.

13. That in regard to the maintenance of character roll of government servants it is stated that a confidential report has to reflect the assessment made regarding the quality, performance and progress of a government servant and such reports are maintained for the purpose of serving as a data of the merit and deficiencies in the matter of confirmation and promotion etc. The object of providing a chance to make a representation against adverse entry is to give an

Q

opportunity to the Government servant to defend himself before recording finally any adverse material injurious to him in his character roll. The procedure of making adverse entry and with regards to giving opportunity for representation is given in paras no. 1606 to 1613 of Railways Establishment Code Volume -I, the extract of which is reproduced as Annexure -3, to this Writ Petition.

14. That according to the provisions of para 1611 of Establishment Code, the head of the department is required to communicate to the gazetted railway servants concerned the adverse remarks as finally accepted by the General Manager.

15. That the petitioner completed 4 years service on 28.11.1981. No adverse entry recorded by the General Manager has been communicated to him so far. No departmental proceedings remained pending against him in March 1982 nor any decision to institute departmental proceedings against him was taken before the promotion of his junior in March 1982. In the circumstances there is nothing adverse which may justify the withholding the petitioner's promotion to Senior Scale due in March 1982.

16. That the petitioner feeling aggrieved by his nonpromotion made representation on 1.4.1982 requesting for review of his case and to give him promotion to Senior Scale with effect from the same date from which his junior Shri R.C. Jat was given promotion. In the alternative, the petitioner also requested that if there is any cause of withholding his promotion the same may please be communicated to him. A true copy of representation dated 1.4.1982 is enclosed as Annexure -4, to this Writ Petition.

17. That on being reminded by representation dated 8.5.1982 the petitioner was informed by the Deputy Controller of Stores

Northern Railway, Alambagh, Lucknow vide his No.E/S/897 dated 16.6.1982 that as intimated by New Delhi, the claim of petitioner for promotion to senior scale was considered when such promotions were made and his juniors were promoted and that his case will continue to be considered. A true copy of this letter is enclosed as Annexure -5, to this Writ Petition.

18. That the communication made in the letter dated 16.6.1982 is entirely vague and the same does not even disclose that the petitioner was found unfit for promotion to senior scale.

19. That in response to the above communication, the petitioner made another representation on 4.10.1982 and again requested that his case may kindly be reviewed for promotion so as to avoid further sufferings financially and mentally. The petitioner also raised his apprehension about impending promotion of another junior Shri Piplani which is said to be under contemplation. A true copy of representation dated 4.10.1982 is enclosed as Annexure -6, to this Writ Petition.

20. That apart from the promotion of Shri R.C. Jat, the junior of the petitioner in the group of direct recruits some other juniors, who were in Class -II have also been given promotion in Senior Scale and the legal right of petitioner of being promoted in preference to his juniors is continued to be denied. The Juniors promoted are Sarva Sri Udesb Kumar, J. Mondal and K.C. Mukhi.

21. That the persons promoted to senior scale of Class -I, either from junior scale of Class -I or from Class -II, are placed in one cadre of Senior Scale in Class -I and no distinction is made in the matter of further advancement in the department. Therefore in such a situation if the injustice caused and illegality committed in the matter of non-promotion of petitioner, is not rectified, he will have

to suffer irreparable and perpetual loss casting stigma and incurring evil consequences.

22. That, although, the petitioner has not received any reply to his last representation dated 4.10.1982 but it is reliably learnt that action has been initiated by the respondent no.2 for making promotion of his another junior against the one vacant post of Senior Scale in Class -I and the order for promotion is likely to be issued any day.

23. That the petitioner has every reason to believe that his service records are good and the same are in no way inferior to any of his juniors who have been given promotion in preference to him. It appears that the only cause of his being left over in promotion is that his case of promotion was not properly and objectively considered on the basis of proper material and he was left over on account of extraneous considerations and on the basis of irrelevant material.

24. That the respondents have no arbitrary powers of withholding the legal right of the petitioner of being considered for promotion in preference to his juniors on the basis of proper and relevant material and they are obliged to disclose the reasons for denial of this legal right in discriminatory and mechanical manner.

25. That the petitioner is a member of Scheduled casts and according to orders and policy of the Union of India, 18% of the posts are to be reserved in any cadre to be filled in by members of Scheduled Castes. It appears that the case of the petitioner for being promoted as a member of Scheduled Caste was also not considered in right perspective which has resulted in the denial of his legal right of being promoted in preference to his juniors similarly situated.

26. That the petitioner has been discriminated in the matter

[Handwritten signature]

vis-a-vis his juniors in the group of direct recruits as well as in Class -II which infringes the fundamental rights guaranteed under Articles 14 and 16 of the Constitution of India.

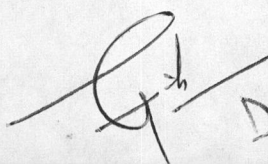
27. That the directives contained in Railway Board's letter No. E(GR)-II-70TR-1/47 dated 23rd March 1971, also substantiate that the immediate superiors have been entrusted with the special responsibility of giving advice and guidance to the Scheduled Caste Officers to improve the quality of their work so that their chances of promotion may be improved. A true copy of letter dated 23rd March, 1971 is enclosed as Annexure -7, to this Writ Petition. It appears that what to say of giving special care, his normal right of being considered for promotion on proper material has been denied arbitrarily and illegally.

28. That feeling aggrieved and having no efficacious remedy, the petitioner is left with no option except to invoke the jurisdiction of this Hon'ble Court through this petition under Articles 226 of the Constitution of India.

29. That the cause of action first arose when an order of promotion of a junior was issued on March, 20, 1982. The cause of action further arose when the grievance of the petitioner still remains unredressed despite representations made on 1.4.1982, 8.5.1982 and 4.10.1982 and further more, the promotion of his another junior is likely to be issued any day.

30. Wherefore, the petitioner begs to prefer this Writ Petition for invoking the jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India for seeking a Writ of Mandamus on the following amongst other grounds :-

(i) Because the petitioner has a legal and fundamental right of

 D. S. Chaurhe

being considered for promotion to senior scale in preference to his juniors and also for being promoted unless he is declared unfit for such promotion on the basis of proper material.

- (ii) Because the petitioner has at his credit good reports and no adverse entry has so far been communicated to him.
- (iii) Because neither any departmental proceedings remained pending against him in March 1982 nor any decision had been taken by competent authority to institute departmental proceedings for the imposition of major punishment.
- (iv) Because, the with-holding of the promotion of the petitioner infringes fundamental rights guaranteed under Articles 14 and 16 of the Constitution of India and the same also contravenes the principles of natural justice.
- (v) Because, the respondents are obliged to consider the case of petitioner's promotion on proper and relevant material and also to disclose the reasons for declaring him unfit if he is not given promotion in his turn.
- (vi) Because, the action of respondents is highly arbitrary and illegal and in case some specific directions by issuing a Writ of Mandamus are not given restraining the respondents from acting unlawfully to withhold his promotion and in the meantime further promotions are allowed to be made, the petitioner will suffer irreparable and perpetual loss which cannot be compensated in any manner what-so-ever.

P R A Y E R

Wherefore, on the facts and grounds stated above, it is most respectfully prayed that this Hon'ble High Court may be

Sh. D. Chandra

graciously pleased :-

(a) To issue a Writ of Mandamus or a writ, direction or order in the nature of mandamus, commanding the respondents to consider the case of petitioner for promotion to the Senior Scale of Class -I on the basis of proper material according to law as existed on 20.3.1982 within a reasonable time to be specified by this Court, and to give him promotion with full and retrospective benefits of seniority etc. unless he is declared unfit by the competent authority.

(b) To issue a Writ of Mandamus or a writ, direction or order in the nature of Mandamus commanding the respondents not to make further promotions to the Senior Scale of Class -I unless the case of petitioner is considered on the basis of proper and relevant material according to law and he is given promotion to the Senior Scale in the first vacancy unless he is declared unfit. for this promotion.

(c) To issue such other Writ direction or order including an order as to costs which in the circumstances of the case this Hon'ble Court may deem fit and proper.

Lucknow: Dated :

January 14, 1983.

DSChaube

(D.S. Chaube)

Advocate,

Counsel for the Petitioner.

Certified that there is
no defect in this WP.

DSChaube
Advocate

A. 17 11

In the Hon'ble High Court of Judicature at Allahabad,

Lucknow Bench, Lucknow.

Civil Misc. Writ Petition No. of 1983.

Gyan Singh

...

Petitioner

Vs.

Union of India and another

...

Respondents.

ANNEXURE NO. 1

Northern Railway

No. 752-E/425(Eia)

Dated 11.1.1979

P.S. No. 7189

(Sd/- Sant Singh)
For G.M. (P)

Copy of letter No. E(O) III-74PM6/165 dated 29.12.1978 from Under Secretary (E)/Railway Board to the General Managers, All India Railways and to others.

In this Ministry's letter quoted above, it was laid down that a Class I gazetted railway servant should put in a minimum of five years service in the Junior Scale (including period of probation) to become eligible for promotion to Senior Scale. The matter has since been reviewed and the Ministry have now decided that these administrative orders should be treated as withdrawn with immediate effect. Accordingly, appointments to posts in Class I (Senior Scale) should be made by promotion in order of seniority, subject to rejection of the unfit, of officers ordinarily with not less than four years of service in Class I/Junior Scale.

It is, however, clarified that the promotions of Class II Officers already made to Senior Scale in view of the above orders should not be disturbed.

12

H/S

इन दि आनरेबुल हाई कोर्ट आफ जुडीकेवर एट इलाहाबाद

लखनऊ बैच लखनऊ

सिविल मिस रिटपिटिशन नं०

आफ 1983.

ज्ञान सिंह

....

पिटिशनर

बनाम

यूनियन आफ इन्डिया एण्ड अदर

अपोजिट पार्टीज

एनेक्जर नं०-2

उत्तर रेलवे

सूचना

आर०सी०/125/1982

प्रधान कार्यालय
बदायुन आउस,
नई दिल्ली।

निम्नलिखित स्थानान्तरण एवं नियुक्ति आदेश तत्काल
जारी किये जाते हैं:-

xxx

xxxx

xxx

श्री आर०सी०जाट भारतीय रेल भण्डार सेवा ,को
तदर्थ स्थानापन्न रूप से ई प्रवर वेतन मान में पदोन्नति कर
श्री के०के० मेहरोत्रा के स्थान पर प्रवर भण्डार अधिकारी-III
लगाया जाता है। श्री मल्होत्रा डेटा केन्द्र में एस०सब०ए०
स्टोर्स के रूप जा रहे हैं।

xxxx

xxxx

xxxx

उपरोक्त आदेशों को महाप्रबन्धक/भण्डार नियंत्रक
का अनमर्देदित अनुमोदन छमा हो।

टिप्पणी

- 1- उपरोक्त सभी कर्मचारी/अधिकारी अपने
से वरिष्ठ अधिकारी से पहले पदोन्नत का
अधिकार नहीं रखते ।
- 2- तृतीय श्रेणी के सभी कर्मचारियों जो कि
द्वितीय श्रेणी में तदर्थ स्थानापन्न रूप से
पदोन्नत हो रहे हैं उनको आवश्यक डाक्टरी

-2-

परीक्षा पास करना अनिवार्य है

॥ 111 ॥ मद संख्या से उनको प्रवर वेतन मान का पूरा वेतन दिया जाने साधारण नियमों के अन्तर्गत किया जाय।

॥ 4 ॥ मद संख्या:- 4 में पदोन्नति श्री जाट के कनिष्ठ वेतन मान के साथ ₹ 50/- का विशेष भत्ता दिया जाय। जब तक कि वह 4 वर्ष की सेवा पूरी नहीं करते श्री मनोहर सिंह बिना ज्वाइनिंग टाइम लिये हुए स्थानान्तरण पर आलमबाग पहुँचे।

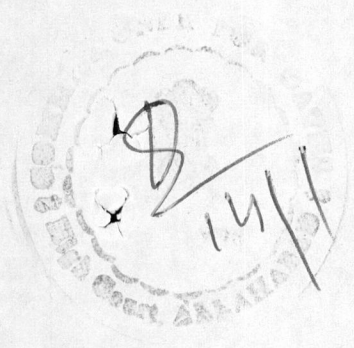
ह 0/-

दिनांक

20-3-1982.

॥ राजेन्द्र लाल धवन ॥

कृते महाप्रबन्धक ॥ क्रमिक ॥ सं 0940 ई 0/18-ईए ॥ -दिनांक



In the Hon'ble High Court of Judicature at Allahabad,

Lucknow Bench, Lucknow.

Civil Misc. Writ Petition No.

of 1982.

Gyan Singh

...

Petitioner.

Vs.

Union of India and another

...

Respondents.

Annexure No. 3

Extract of Paras 1606 to 1613 of Establishment Code Volume I

SECTION II - CONFIDENTIAL REPORTS.

1606- Gazetted Rly servants - A confidential report in the prescribed form shall be submitted annually in respect of each Rly. servant holding a gazetted post, whether he holds it in a substantive or officiating capacity, of the period ending 31st March so as to reach the authorities mentioned in rule 1615 by the second week of May.

A similar report shall also be submitted to the authority concerned on the transfer of an officer from one Rly. to another.

Note :- The annual confidential reports on gazetted Rly. servants of the Indian Audit and Accounts Service employed under the Ministry of Railways should, however, be submitted in the first week of April.

1607- Confidential reports on gazetted Rly. servants must contain in full and frank appraisal of his work during the year, the transit of character whether pleasant or unpleasant, aptitude, personality and bearing, and c. which contribute to quality of his work as gazetted railway servant and his fitness for shouldering larger executive and administrative responsibilities. The reports must not be confined merely to general marks and off hand impressions so brief and casual as to convey little or no real meaning and the assessment must be based on failure or excellence in the work entrusted to the

8/14/11

gazetted Railway servant.

1608: A gazetted railway servant shall not ordinarily be given an unfavourable confidential report before an opportunity has been taken, preferably at a personal interview or, if that is not practicable, by means of a personal letter pointing out to him the direction in which his work has been unsatisfactory or the faults of character or temperament, and c. which require to be remedied. The manner and method of conveying to the gazetted railway servant that his work needs improvement in certain directions must be such that the advice given and the warning or censure administered, whether orally or in writing, shall, having regard to the temperament of the gazetted railway servant, be most beneficial to him. If, inspite of this, there is no appreciable improvement and an adverse confidential report has to be made, the facts on which the remarks are based should be clearly brought out.

1609: As a general rule, in no circumstances, should a gazetted Railway servant be kept in ignorance for any length of time that his superiors, after sufficient experience of his work, are dissatisfied with him, where a warning might eradicate a particular fault, the advantages of prompt communication are obvious. On the other hand, the communication of any adverse remarks removed from their context is likely to give a misleading impression to the gazetted Railway servant concerned. The procedure detailed in rule 1610 should, therefore be followed.

1610: When an unfavourable report is made on a gazetted railway servant he shall be shown Section I of his confidential report and his initials obtained in acknowledgement. He should also be permitted to submit for consideration and record, his comments, if any of the gazetted railway servant reported upon, will be forwarded to the

A-22

next higher authority with the further comments of the reporting officer. The next higher officer may, if he considers it necessary or desirable, give the gazetted railway servant reported upon, an interview and discuss the matter with him before he frames his conclusions and endorses his remarks on the report.

Note : 1 : It is not intended that a copy of the report should be supplied to the gazetted railway servant or that he should make a copy for his use.

Note : 2 : Section II of the report will be initiated and filled in by a gazetted railway servant of not lower than junior administrative rank. No portion of the remarks in the section will be communicated except under the personal orders of the General Manager.

1611: On receipt of the reports from the General Manager, the heads of departments concerned will communicate to the gazetted railway servants concerned, the Section I adverse portions of the reports in substance together with any remarks in Section II which the General Manager may indicate. It is to be noted that adverse remarks are to be communicated only as finally accepted by the General Manager.

1612: When a reporting Officer vacates his post on account of ~~xxxx~~ transfer, leave and c. and is not likely to return to the post retirement, he should, before making over charge of his post to his successor, record his opinion on all gazetted railway servants who have served under him for a period of three months or more.

1613 : Besides the annual reports there are others which may either be :-

(1) Reports of particular incidents or acts, which, if disciplinary action is taken, require regular proceedings under the rules in Chapter XVII, or

14/11

Q

K23

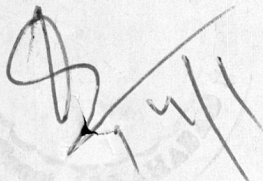
- 4 -

(2) Reports in reply to enquiries whether a gazetted railway servant who has ~~has~~ not been well reported on in the past has improved and is fit for promotion; or

(3) Reports in answer to requests for opinion as to the fitness of a gazetted railway servant for a particular appointment & C.

As regards (1) a summary of the report and of the disciplinary action taken shall be recorded in the gazetted railway servant's file of confidential reports. Ordinarily, there will be no need to communicate the contents of (2) and (3) to a gazetted rly. servant unless they disclose facts or allegation which, in the opinion of the Rly. Bd. should be conveyed to the gazetted Rly. servant concerned.

.....

Handwritten signature and initials, possibly "S. 4/11", in the bottom left corner.

A 24

In the Hon'ble High Court of Judicature at Allahabad,

Lucknow Bench, Lucknow.

Civil Misc. Writ Petition No. of 19823

Gyan Singh

...

Petitioner.

Vs.

Union of India and another

...

Respondents.

ANNEXURE NO. 4

To,

The General Manager (P),
Northern Railway,
Headquarters Office,
Baroda House,
New Delhi.

Reg: Promotion of Gyan Singh, A.C.O.S./I
Alambagh Stores Depot in Sr. Scale.

I joined the Railways on 29.11.77 as I.R.S.S.(Prob.) from 1976 exam. I came on the working post on 29.5.79 as A.C.O.S. in E.T. Depot, N.Rly. Kanpur and remained there up to 6.4.81. After that I was transferred to Lucknow and remained as A.C.O.S./R.Rly. Charbagh, Lucknow and it present I am working at Alambagh Stores Depot as A.C.O.S./I. I have completed my four years service in November 1981 and thus five months have passed but still I am working in Jr. Scale in grade Rs.700-1300, whereas Shri Ram Chandra Jat, who is junior to me and has not completed even four years service has been promoted in Sr. Scale vide G.M.(P)/NDLS. letter No.940E/18-X(Eia) dated 20.3.82 and other Class II officers, who are junior to me have also been promoted in Sr. Scale. I have not been conveyed any remarks and the reasons as to why I have been superceeded though during my past service, I have not been conveyed any remarks adversely on my working. It is also pointed out that Shri R.C. Jat and myself were posted at Lucknow from where Shri Jat has been transferred on promotion and therefore, this

promotion of Shri Jat is also not local arrangement. I hold my claim of promotion prior to Shri Jat.

I view of the above facts, I am requesting to review my case and arrange for consideration of my promotion to Sr. Scale from the same date from which Shri R.C. Jat has been promoted and if there is any cause of withholding promotion, the same may please be conveyed to me.

Thanking you,

Dated April 1, 1982.

Sd/- 1.4.82
Gyan Singh
A.C.O.S.I/ANV/LKO.

[Handwritten signature]



A26

In the Hon'ble High Court of Judicature At Allahabad,
Lucknow Bench, Lucknow.

Civil Misc. Writ Petition No. of 1982.

Gyan Singh ... Petitioner.
Vs.
Union of India and another ... Respondents.

ANNEXURE NO. 5

NORTHERN RAILWAY
DY. CONTROLLER OF STORE'S OFFICE: ALAMBAGH/LUCKNOW

No. E/8/897

Dated 16.6.1982.

To : Shri Gyan Singh, A.C.O.S./I,
N. Railway, Alambagh,
Lucknow.

Sub:- Appeal of Shri Gyan Singh A.C.O.S.I/AMV.

In reference to your appeal Dated : 08-05-1982 the Dy.C.P.O./G.
New Delhi has intimated as under vide his D.O. letter No. 728-E/190/Eia
dated 9.6.82.

"The claim of Shri Gyan Singh for promotion to Sr. Scale was
considered when such promotions were made and his juniors promoted
and his case will continue to be considered."

Sd/-
For Dy. Controller of Stores,
N.Rly., Alambagh/Lucknow.



A27 21

Gyan Singh	...	Petitioner.
	Vs.	
Union of India and others	...	Respondent s.

No. ACOS/I/Personal/82

The General Manager (P)
Northern Railway,
Bareda House,
New Delhi.

(THROUGH PROPER CHANNEL)

Reference:-My earlier letter No.nil dated 1.4.82.

2. letter No. GS/ACOS/I/AMV/Personnel/ dated 8.5.82 which was sent to Dy. COS/LKO vide his D.O.No.E/S/897 dt. 8.5.82.
3. Your D.O. No. 728-E/190/EIA dated 9.6.82.

1) I have completed more than 4½ years in junior scale Class-I having joined Indian Railway on 29.11.77 as probationer in the Stores Department through U.P.S.C.

2) Shri R.C. Jat who was junior to me has also been promoted ~~to~~ in the senior scale vide G.M.(P)/NDLS letter No.940-E/18X(EIA) dated 20.3.82 and also other class II officers who were junior to me.

3) Your reply against D.O. letter No. 728-E/190/EIA dated 9.6.1982 is not speaking as to why I was not promoted. I also have not been communicated any adverse confidential report against my working as per para 1611 (R1).

4) It is learnt that Shri Piplani who is also junior to me is being considered for promotion in the senior scale.

Kindly call for my case and review it so that I am may be

considered for senior scale as I am suffering financially and mentally because of not getting my promotion which is due to me.

Yours faithfully,

Sd/- 4.10.82
Gyan Singh
A.C.O.S./I/AMV/LKO.
I.R.S.S./R.Rly. from 1976 Exam.

To Dy.COS/AMV/LKO.

Advance copy to : (1) G.M.(P)N.Rly. New Delhi.

REGISTERED A.D. (2) Director Railway Stores/Railway Board,
New Delhi.

(3) Chairman, Union Public Service Commission,
Dheulpur House, Shahjahan Road, New Delhi.

.....

8/14/11

23
H29

In the Hon'ble High Court of Judicature at Allahabad,

Lucknow Bench, Lucknow,

Civil Misc. Writ Petition No. of 1983.

Gyan Singh

...

Petitioner

Vs.

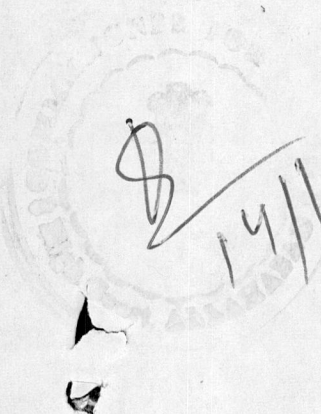
Union of India and anothers ...

Respondents.

ANNEXURE NO.7

Railway Board's letter No. E(GR) II70TR1 dated 23rd March 1971

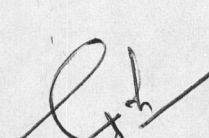
Subject : Concessions to Scheduled Castes and Scheduled Tribes in posts filled by promotion - Class I Services/Posts.

In Railway Board's letter No. E(SCT)68CM15/10 dated 27th August 1968, Board's directives regarding certain reservations and other concessions to Scheduled Castes/Scheduled Tribes in posts filled by promotion have been circulated to the Railway Administrations.

The Railway Board have further decided that in order to improve the chances of Scheduled Castes/Scheduled Tribes Officer for selection to the higher categories of posts in Class I -

(i) Scheduled Castes/Scheduled Tribes Officers in Class I services/Posts should be provided with more opportunities for institutional training and for attending seminars/symposia/conferences. Advantage could in this connection be taken of the training facilities available on Indian Railways as well as at the Academy of Administration, Mussoorie, National Police Academy, Mount Abu, Indian Institute of Public Administration, New Delhi, the Administrative Staff College, Hyderabad etc.

(ii) It should be the special responsibility of the immediate superior Officers of the Scheduled Castes/Scheduled Tribes Officers in Class I to give advice and guidance to the latter to improve the quality of their work.



A30 24

Civil Misc. Writ Petition No. of 1983.

...

VS.

...

A F F I D A V I T

1. That the deponent is the petitioner of the above noted Writ Petition and as such is well conversant with the facts of the case.

2. That the contents of paras 1 to 10, 14, 16 to 19 and 26 to 29 of the accompanying Writ Petition are true to my own knowledge, those of paras 11, 12, 13, 15 and 20 to 25 are based on information received and derived from record which I believe to be true and those of para 30 are based on legal advice.

3. That the Annexures 1 to 7 of the accompanying Writ Petition

are true ~~km~~ copies and they have been duly compared with the originals.

Lucknow: Dated :

January 14, 1983.


Deponent.

VERIFICATION

I, the above named deponent, do hereby verify that the contents of paras 1 to 3 of this affidavit are true to my own knowledge and no part of it is false and nothing material has been concealed, so help me God.

Signed and verified this day 14th of January, 1983 at High Court Compound, Lucknow Bench, Lucknow.

Lucknow: Dated :

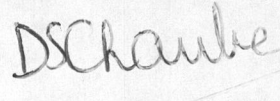
January 14, 1983.


Deponent.

I identify the deponent who has signed before me.

Lucknow: Dated :

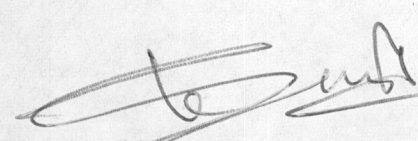
January 14, 1983.


D.S. Chaube
Advocate.

Solemnly affirmed before me on 14-1-83

at 9.10 a.m./p.m. by Sri Gyan Singh, ~~and~~ the deponent who is identified by Sri D.S. Chaube, Advocate, High Court of Allahabad, Lucknow Bench, Lucknow.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which has been read out and explained by me.


High Court, Allahabad
Lucknow Bench.

16/2/11/83

14/1/83

132

ब अदालत श्रीमान उच्च न्यायालय, लखनऊ में महोदय

वादी (मुद्दै)

प्रतिवादी (मुद्दाबलेह)

का

वकालतनामा

2
1



14237
157

मान सिंह

वादी (मुद्दै)

बनाम

पूनिषत आफ 2105पा

प्रतिवादी (मुद्दाबलेह)

नाम अदालत	नाम मुकदमा	नाम फरीकन
-----------	------------	-----------

नं० मुकदमा सन् १९ पेशी की ता० १९ ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

एडवोकेट

डी० एस० चौधरी

महोदय

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा [इकरार] करता हूं और लिखे देता हूं इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी [फरीकसानी] का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त [दस्तखती] रसीद से लेवें या पंच नियुक्त करें - वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे ।

Accepted
D. S. Chandra
Advocate

हस्ताक्षर

(GYAN SINGH)

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

14

महीना

Jan

१९४२ ई०

433

In the Hon'ble High Court of Judicature at Allahabad.

Lucknow Bench, Lucknow.

Civil Misc. Application No. of 1983

In re :

Civil Misc. Writ Petition No. of 1983.

Gyan Singh	Applicant/Petitioner.
	Versus	
Union Of India and another	Respondents.

APPLICATION FOR STAY

The applicant petitioner, named above, respectfully begs to state as under :-

1. That the applicant petitioner has filed the above Writ Petition praying for inter-alia a Writ of Mandamus commanding the respondents to consider his case for promotion to Senior Scale of Class -I with effect from 22.3.1982 on the basis of proper material according to law in preference to his juniors.
2. That as brought out in the accompanying Writ Petition the action of respondents in withholding his promotion to the Senior Scale of Class -I has been highly arbitrary and illegal and in case further promotions are made without getting the case of petitioner considered on the basis of proper and relevant material for promotion to Senior Scale of Class -I in the first vacancy he will suffer irreparable and perpetual loss casting stigma and incurring evil consequences.

P R A Y E R

wherefore, it is humbly prayed that this Hon'ble Court may be

pleased to issue a Writ of Mandamus commanding the respondents not to

In the Hon'ble High Court of Judicature at Allahabad.

Lucknow Bench. Lucknow.

Civil Misc. Writ Petition No. _____ of 1983.

Gyan Singh

...

Politkovsky.

13

Union of India and another

THE UNIVERSITY OF CHICAGO

LIST OF DOCUMENTS

Sl.no.	Particulars	Page number
1.	Writ Petition ...	1 to 10
2.	<u>Annexure -1</u> ... (True copy of letter No. E(O) III-74/PA-6/165 dated 29.12.1976)	11
3.	<u>Annexure -2</u> ... (Extract true copy of Order dated 20.3.1982)	12 to 13
4.	<u>Annexure -3</u> ... (Extract true copy of Paras 1606 to 1613 of Railway Establishment Code Volume -1)	14 to 17
5.	<u>Annexure -4</u> ... (True copy of petitioner's representation dated 1.4.1982)	18 to 19
6.	<u>Annexure -5</u> ... (True copy of letter no No. E/S/897 dated 16.6.1982)	20
7.	<u>Annexure -6</u> ... (True copy of petitioner's last representation dated 4.10.1982)	21 to 22
8.	<u>Annexure -7</u> ... (True copy of letter No. E(GR)-II-70TR-1/47 dated 23.3.1971)	23 +
9.	Affidavit ...	24 to 25
10.	Power.	

Lucknow : Dated :

January 14, 1983.

(D.S. CRAIG)

Advocate.

Counsel for the Petitioner.

A37

In the Hon'ble High Court of Judicature at Allahabad.

Lucknow Bench, Lucknow.

Civil Misc. Writ Petition No. of 1983.

Gyan Singh, aged about 29 years.

S/o. Shri Durjan Singh,

Assistant Controller of Stores,

Northern Railways, working at

Alambagh General Stores Depot.,

Lucknow.

Petitioner.

Vs.

1. Union of India through
Secretary, Ministry of Railways,
Rail Bhawan, Parliament Street,
New Delhi.

2. Northern Railways, through
General Manager, Hqr. N. Railways,
Bareilly House, New Delhi.

... Respondents.

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

Is,

**The Hon'ble Chief Justice and his other companion Judges of
this Hon'ble Court.**

**The petitioner named above most respectfully begs to state
as under :-**

**1. That this writ petition is directed against withholding of
promotion of the petitioner from junior scale to senior scale in**

Class -I Indian Railways Stores Services.

2- That the petitioner was recruited through the Union Public Service Commission for appointment in Indian Railways Stores Services. He was subsequently given appointment in junior scale of Class -I with effect from 29.11.1977.

3- That the petitioner remained in training and was, thereafter, given working post on 29.5.1979 as Assistant Controller of Stores, Electric Traction Depot., Northern Railway, Kanpur.

4- That the petitioner continued to hold the post of Assistant Controller of Stores in Electric Traction Depot, Northern Railway, Kanpur upto 6.4.1981 and was, thereafter, transferred to Lucknow as Assistant Controller of Stores, Northern Railway, Charbagh, Lucknow.

5- That the petitioner was subsequently given charge of Asstt. Controller of Stores, Northern Railway, Alambagh, Lucknow where he is still working.

6- That the next promotion of officers in junior scale of Class -I is made to senior scale in the same class for which the selection is made on the principle of seniority subject to rejection of unfit.

7- That as per directions contained in letter No. E(O)111-74/PMB/165 dated 29.12.1978 from Under Secretary, Railway Board to the General Managers, all Indian Railways and to others, appointments to post in Class -I senior scale are required to be made by promotion in order of seniority subject to rejection of unfit, of officers ordinarily with not less than 4 years of service in Class -I Junior Scale. A true copy of the aforesaid letter is enclosed as Annexure -1. to this Writ Petition.

A30

8. That Shri E.C. Jat was given appointment in Junior Scale of Class -I after one year of the appointment of the petitioner in Junior Scale and therefore, he is junior to the petitioner.

9. That the petitioner was entitled for promotion in Senior Scale of Class -I in March, 1982 when his junior Shri E.C. Jat was given promotion in Senior Scale of Class -I by the respondent no.2 vide his Order No.940-E/18-X-EA dated 20.3.1982. An extract true copy of the said order is enclosed as Annexure -2, to this Writ Petition.

10. That when at the time of his promotion from Junior Scale to Senior Scale in March, 1982, Shri E.C. Jat had not completed 4 years service and even then he was given promotion in preference to the petitioner who, although senior, has been discriminated and left over arbitrarily and illegally.

11. That in respect of consideration for promotion in the cases of these officers against whom there is any complaint which is subject matter of preliminary/fact finding enquiry it is provided in the Railway Board circular letter No.(B & A)71 WGS-23 dated 29.1.1972 that the merefact that if some enquiries are being made against the officer departmentally or by S.P.E. should not stand in the way of his promotion, if he is otherwise fit for promotion. The relevant extract from the aforesaid Railways Board directions is reproduced below :-

" (x) The mere fact that complaints have been received against a railway servant and some inquiries are being made against him departmentally or by S.P.E. , should not stand in the way of his promotion, if he is otherwise eligible for promotion. The intention is that promotion due should not be accorded to a person who is under suspension or against whom disciplinary proceedings for the imposition of a major penalty have been initiated or are

proposed to be initiated, till the finalization of the proceedings against him, this should be resorted to only in these cases where the disciplinary authority comes to the conclusion that a prima facie case has been established against a railway servant as a result of a fact finding inquiry or otherwise and he has either been placed under suspension or departmental proceedings for the imposition of a major penalty have been initiated or are proposed to be initiated against him. In cases where a preliminary report is received from the S.P.D. or Vigilance, the disciplinary authority should take a decision expeditiously whether or not to initiate disciplinary proceedings against the railway servant concerned. "

12. That in regard to the consideration of adverse entries in the matter of promotion it is well recognized principle of law that no adverse entry can be acted upon unless the same has been communicated to the Government servant according to law, the opportunity for representation has been given and representation, if any, considered and finally decided. Therefore, if there is any entry in the character roll which has not been communicated to the government servant according to rule, the same cannot be deemed as absolute and final so as to be taken into account in the matter of promotion.

13. That in regard to the maintenance of character roll of government servants it is stated that a confidential report has to reflect the assessment made regarding the quality, performance and progress of a government servant and such reports are maintained for the purpose of serving as a data of the merit and deficiencies in the matter of confirmation and promotion etc. The object of providing a chance to make a representation against adverse entry is to give an

opportunity to the Government servant to defend himself before recording finally any adverse material injurious to him in his character roll. The procedure of making adverse entry and with regards to giving opportunity for representation is given in paras no. 1606 to 1613 of Railways Establishment Code Volume -I, the extract of which is reproduced as Annexure -3, to this Writ Petition.

14. That according to the provisions of para 1611 of Establishment Code, the head of the department is required to communicate to the gazetted railway servants concerned the adverse remarks as finally accepted by the General Manager.

15. That the petitioner completed 4 years service on 26.11.1961. No adverse entry recorded by the General Manager has been communicated to him so far. No departmental proceedings remained pending against him in March 1962 nor any decision to institute departmental proceedings against him was taken before the promotion of his junior in March 1962. In the circumstances there is nothing adverse which may justify the withholding the petitioner's promotion to Senior Scale due in March 1962.

16. That the petitioner feeling aggrieved by his nonpromotion made representation on 1.4.1962 requesting for review of his case and to give him promotion to Senior Scale with effect from the same date from which his junior Shri R.C. Jat was given promotion. In the alternative, the petitioner also requested that if there is any cause of withholding his promotion the same may please be communicated to him. A true copy of representation dated 1.4.1962 is enclosed as Annexure -4, to this Writ Petition.

17. That on being reminded by representation dated 8.5.1962 the petitioner was informed by the Deputy ContROLLER of Stores

Northern Railway, Alambagh, Lucknow vide his No.E/S/697 dated 16.6.1982 that as intimated by New Delhi, the claim of petitioner for promotion to senior scale was considered when such promotions were made and his juniors were promoted and that his case will continue to be considered. A true copy of this letter is enclosed as Annexure -5, to this Writ Petition.

18. That the communication made in the letter dated 16.6.1982 is entirely vague and the same does not even disclose that the petitioner was found unfit for promotion to senior scale.

19. That in response to the above communication, the petitioner made another representation on 4.10.1982 and again requested that his case may kindly be reviewed for promotion so as to avoid further suffering financially and mentally. The petitioner also raised his apprehension about impending promotion of another junior Shri Piplani which is said to be under contemplation. A true copy of representation dated 4.10.1982 is enclosed as Annexure -6, to this Writ Petition.

20. That apart from the promotion of Shri P.C. Jat, a junior of the petitioner in the group of direct recruits some other juniors, who were in Class -II have also been given promotion in Senior Scale and the legal right of petitioner of being promoted in preference to his juniors is continued to be denied. The Juniors promoted are Sarva Sri Udesb Kumar, J. Mandal and K.C. Mukhi.

21. That the persons promoted to senior scale of Class -I, either from junior scale of Class -I or from Class -II, are placed in one cadre of Senior Scale in Class -I and no distinction is made in the matter of further advancement in the department. Therefore in such a situation if the injustice caused and illegality committed in the matter of non-promotion of petitioner, is not rectified, he will have

to suffer irreparable and perpetual loss casting stigma and incurring evil consequences.

22. That, although, the petitioner has not received any reply to his last representation dated 4.10.1982 but it is reliably learnt that action has been initiated by the respondent no.2 for making promotion of his another junior against the one vacant post of Senior Scale in Class -I and the order for promotion is likely to be issued any day.

23. That the petitioner has every reason to believe that his service records are good and the same are in no way inferior to any of his juniors who have been given promotion in preference to him. It appears that the only cause of his being left over in promotion is that his case of promotion was not properly and objectively considered on the basis of proper material and he was left over on account of extraneous considerations and on the basis of irrelevant material.

24. That the respondents have no arbitrary powers of withholding the legal right of the petitioner of being considered for promotion in preference to his juniors on the basis of proper and relevant material and they are obliged to disclose the reasons for denial of this legal right in discriminatory and mechanical manner.

25. That the petitioner is a member of Scheduled caste and according to orders and policy of the Union of India, 18% of the posts are to be reserved in any cadre to be filled in by members of Scheduled Castes. It appears that the case of the petitioner for being promoted as a member of Scheduled Caste was also not considered in right perspective which has resulted in the denial of his legal right of being promoted in preference to his juniors similarly situated.

26. That the petitioner has been discriminated in the matter

vis-a-vis his juniors in the group of direct recruits as well as in Class -II which infringes the fundamental rights guaranteed under Articles 14 and 16 of the Constitution of India.

27. That the directives contained in Railway Board's letter No. R(CR)-II-70R-1/47 dated 23rd March 1971, also substantiate that the immediate superiors have been entrusted with the special responsibility of giving advice and guidance to the Scheduled Caste Officers to improve the quality of their work so that their chances of promotion may be improved. A true copy of letter dated 23rd March, 1971 is enclosed as Annexure -7, to this Writ Petition. It appears that what to say of giving special care, his normal right of being considered for promotion on proper material has been denied arbitrarily and illegally.

28. That feeling aggrieved and having no efficacious remedy, the petitioner is left with no option except to invoke the jurisdiction of this Hon'ble Court through this petition under Articles 226 of the Constitution of India.

29. That the cause of action first arose when an order of promotion of a junior was issued on March, 20, 1982. The cause of action further arose when the grievance of the petitioner still remains unredressed despite representations made on 1.4.1982, 8.5.1982 and 4.10.1982 and further more, the promotion of his another junior is likely to be issued any day.

30. Therefore, the petitioner begs to prefer this Writ Petition for invoking the jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India for seeking a Writ of Mandamus on the following amongst other grounds :-

(1) Because the petitioner has a legal and fundamental right of

being considered for promotion to senior scale in preference to his juniors and also for being promoted unless he is declared unfit for such promotion on the basis of proper material.

(ii) Because the petitioner has at his credit good reports and no adverse entry has so far been communicated to him.

(iii) Because neither any departmental proceedings remained pending against him in March 1962 nor any decision had been taken by competent authority to institute departmental proceedings for the imposition of major punishment.

(iv) Because, the with-holding of the promotion of the petitioner infringes fundamental rights guaranteed under Articles 14 and 16 of the Constitution of India and the same also contravenes the principles of natural justice.

(v) Because, the respondents are obliged to consider the case of petitioner's promotion on proper and relevant material and also to disclose the reasons for declaring him unfit if he is not given promotion in his turn.

(vi) Because, the action of respondents is highly arbitrary and illegal and in case some specific directions by issuing a Writ of Mandamus are not given restraining the respondents from acting unlawfully to withhold his promotion and in the meantime further promotions are allowed to be made, the petitioner will suffer irreparable and perpetual loss which cannot be compensated in any manner what-so-ever.

PRAYER

Wherefore, on the facts and grounds stated above, it is most respectfully prayed that this Hon'ble High Court may be

graciously pleased :-

(a) To issue a Writ of Mandamus or a writ, direction or order in the nature of mandamus, commanding the respondents to consider the case of petitioner for promotion to the Senior Scale of Class -I on the basis of proper material according to law as existed on 20.3.1962 within a reasonable time to be specified by this Court, and to give him promotion with full and retrospective benefits of seniority etc. unless he is declared unfit by the competent authority.

(b) To issue a Writ of Mandamus or a writ, direction or order in the nature of Mandamus commanding the respondents not to make further promotions to the Senior Scale of Class -I unless the case of petitioner is considered on the basis of proper and relevant material according to law and he is given promotion to the Senior Scale in the first vacancy unless he is declared unfit, for this promotion.

(c) To issue such other Writ direction or order including an order as to costs which in the circumstances of the case this Hon'ble Court may deem fit and proper.

Lucknow: Dated : 11.1.1963.

January , 1963.

(D.S. Chandra)
Advocate,
Counsel for the Petitioner.

A 40 11

In the Hon'ble High Court of Judicature at Allahabad.
Lucknow Bench, Lucknow.

Civil Misc. Writ Petition No. of 1963.

Gyan Singh	...	Petitioner
	Vs.	
Union of India and another	...	Respondents.

ANNEXURE NO. 1

Northern Railway
No. 752-E/425(Eia)

Dated 11.1.1979

P.S. No. 7169

(Sd/- Sant Singh)
For G.M. (P)

Copy of letter No. E(O)IL-7486/165 dated 29.12.1978 from Under Secretary (E)/Railway Board to the General Managers, All India Railways and to others.

In this Ministry's letter quoted above, it was laid down that a Class I gazetted railway servant should put in a minimum of five years service in the Junior Scale (including period of probation) to become eligible for promotion to Senior Scale. The matter has since been reviewed and the Ministry have now decided that these administrative orders should be treated as withdrawn with immediate effect. Accordingly, appointments to posts in Class I (Senior Scale) should be made by promotion in order of seniority, subject to rejection of the unfit, of officers ordinarily with not less than four years of service in Class I/Junior Scale.

It is, however, clarified that the promotions of Class II Officers already made to Senior Scale in view of the above orders should not be disturbed.

A A1

इन दि जानरेकुल वार्ड कोट आप जुडीकेवर पट हलाहाबाद
=====

लमनउ बेव लमनउ
=====

सिजिल मिस्टर रिटिपटीलन नं०

आप 1983.

जान सिंह

....

पिटीलनर

जानम

युनियन आप वान्दिया एण्ड बर्ली

अपोजिट पार्टीज

एनेकजर नं०-2
=====

उस्तर रेलवे
=====
सुचना

आर०००/125/1982

प्रधान कार्यालय
बहादा आउस,
नई दिल्ली।

निम्नलिखित स्थानान्तरण एवं नियुक्ति आदेश तत्काल
जारी किये जाते हैं:-

श्री आर०००/आरट भारतीय रेल भण्डार सेवा ,को
तदर्थ स्थानापन्न रूप से प्रवर वेतन मान में पदोन्नति कर
श्री के०के० मेहरोजा के स्थान पर प्रवर भण्डार अधिकारी-III।
समाया जाता है। श्री मरहोजा डेटा केन्द्र में एस०एस०ए०
स्टोर्स के रूप जा रहे हैं।

उपरोक्त आदेशों को महाप्रबन्ध/भण्डार नियंत्रक
का अवमोक्षित अनुमोदन हुआ हो।

टिप्पणी

- 1- उपरोक्त सभी कर्मचारी/अधिकारी अपने
से जरिष्ठ अधिकारी से पहले पदोन्नत का
अधिकार नहीं रखते ।
- 2- तृतीय श्रेणी के सभी कर्मचारियों जो कि
द्वितीय श्रेणी में तदर्थ स्थानापन्न रूप से
पदोन्नत हो रहे हैं उनको आवश्यक डाक्टरी

परीक्षा पास करना अनिवार्य है

§1111§ मद संख्या से उनको प्रथम वेतन मान का पूरा वेतन दिया जाने साधारण नियमों के अन्तर्गत किया जाय।

§4§ मद संख्या:- 4₄ में पदोन्नति का आर्ट के कनिष्ठ वेतन मान के साथ रु०/ 50/- का विशेष भत्ता दिया जाय। जब तक कि वह 4 वर्षों की सेवा पूरी नहीं करते ही मनोहर सिंह बिना ज्वाइनिंग टाइटम लिये हुए स्थानान्तरण पर आलमबाग पहुँचे।

रु०/-

दिनांक

20-3-1982.

§ राजेन्द्र लाल धवन §

वृत्ते महाप्रबन्धक (प्रति) सं० 9406/ 18-ए-विनंति

14

A42

In the Hon'ble High Court of Judicature at Allahabad.
Lucknow Bench, Lucknow.

Civil Misc. Writ Petition No. of 1982.

Gyan Singh ... Petitioner.

Vs.

Union of India and another ... Respondents.

Annexure No. 3

Extract of Paras 1606 to 1613 of Establishment Code Volume I

SECTION 11 - CONFIDENTIAL REPORTS.

1606- Gazetted Wly servants - A confidential report in the prescribed form shall be submitted annually in respect of each Wly. servant holding a gazetted post, whether he holds it in a substantive or officiating capacity, of the period ending 31st March so as to reach the authorities mentioned in rule 1615 by the second week of May.

A similar report shall also be submitted to the authority concerned on the transfer of an officer from one Wly. to another.

Note :- The annual confidential reports on gazetted Wly. servants of the Indian Audit and Accounts Service employed under the Ministry of Railways should, however, be submitted in the first week of April.

1607- Confidential reports on gazetted Wly. servants must contain in full and frank appraisal of his work during the year, the tenor of character whether pleasant or unpleasant, aptitude, personality and bearing, and c. which contribute to quality of his work as gazetted railway servant and his fitness for shouldering larger executive and administrative responsibilities. The reports must not be confined merely to general marks and off hand impressions so brief and casual as to convey little or no real meaning and the assessment must be based on failure or excellence in the work entrusted to the

gazetted railway servant.

1608: A gazetted railway servant shall not ordinarily be given an unfavourable confidential report before an opportunity has been taken, preferably at a personal interview or, if that is not practicable, by means of a personal letter pointing out to him the direction in which his work has been unsatisfactory or the faults of character or temperament, and c. which require to be remedied. The manner and method of conveying to the gazetted railway servant that his work needs improvement in certain directions must be such that the advice given and the warning or censure administered, whether orally or in writing, shall, having regard to the temperament of the gazetted railway servant, be most beneficial to him. If, in spite of this, there is no appreciable improvement and an adverse confidential report has to be made, the facts on which the remarks are based should be clearly brought out.

1609: As a general rule, in no circumstances, should a gazetted railway servant be kept in ignorance for any length of time of his work, or of the general confidential remarks on his work, or of the criticisms of his work, after sufficient experience of his work, are discussed with him, where a warning might eradicate a particular fault, the advantages of prompt communication are obvious. On the other hand, the communication of any adverse remarks removed from their context is likely to give a misleading impression to the gazetted railway servant concerned. The procedure detailed in rule 1610 should, therefore, be followed.

1610: When an unfavourable report is made on a gazetted railway servant he shall be shown Section 1 of his confidential report and his initials obtained in acknowledgement. He should also be permitted to submit for consideration and record, his comments, if any of the gazetted railway servant reported upon, will be forwarded to the

next higher authority with the further comments of the reporting officer. The next higher officer may, if he considers it necessary or desirable, give the gazetted railway servant reported upon, an interview and discuss the matter with him before he frames his conclusions and endorses his remarks on the report.

Note : 1 : It is not intended that a copy of the report should be supplied to the gazetted railway servant or that he should make a copy for his use.

Note : 2 : Section II of the report will be initiated and filled in by a gazetted railway servant of not lower than junior administrative rank. No portion of the remarks in the section will be communicated except under the personal orders of the General Manager.

1611 : On receipt of the reports from the General Manager, the heads of departments concerned will communicate to the gazetted railway servants concerned, the Section I adverse portions of the reports in substance together with any remarks in Section II which the General Manager may indicate. It is to be noted that adverse remarks are to be communicated only as finally accepted by the General Manager.

1612 : When a reporting Officer vacates his post on account of transfer, leave and c. and is not likely to return to the post retirement, he should, before making over charge of his post to his successor, record his opinion on all gazetted railway servants who have served under him for a period of three months or more.

1613 : Besides the annual reports there are others which may either be :-

(1) Reports of particular incidents or acts, which, if disciplinary action is taken, require regular proceedings under the rules in Chapter XVII, or

(2) Reports in reply to enquiries whether a gazetted railway servant who has ~~be~~ not been well reported on in the past has improved and is fit for promotion; or

(3) Reports in answer to requests for opinion as to the fitness of a gazetted railway servant for a particular appointment & C.

As regards (1) a summary of the report and of the disciplinary action taken shall be recorded in the gazetted railway servant's file of confidential reports. Ordinarily, there will be no need to communicate the contents of (2) and (3) to a gazetted wly. servant unless they disclose facts or allegation which, in the opinion of the Wly. Bd. should be conveyed to the gazetted Wly. servant concerned.

.....

A.A.A.

In the Hon'ble High Court of Judicature at Allahabad,

Lucknow Bench, Lucknow.

Civil Misc. Writ Petition No. of 19823

Gyan Singh ... Petitioner.

Vs.

Union of India and another ... Respondents.

ANNEXURE NO. 4

To,

The General Manager (P),
Northern Railway,
Headquarters Office,
Bareilly House,
New Delhi.

Re: Promotion of Gyan Singh, A.C.O.S./I
Alambagh Stores Depot in Sr. Scale.

I joined the Railways on 29.11.77 as I.N.S.S.(Prob.) from 1976 exam. I came on the working post on 29.5.79 as A.C.O.S. in R.T. Depot, N. Rly. Kanpur and remained there up to 6.4.81. After that I was transferred to Lucknow and remained as A.C.O.S./R. Rly. Charbagh, Lucknow and at present I am working at Alambagh Stores Depot as A.C.O.S./I. I have completed my four years service in November 1981 and thus five months have passed but still I am working in Jr. Scale in grade B.700-1300, whereas Shri Ram Chandra Jat, who is junior to me and has not completed even four years service has been promoted in Sr. Scale vide G.M.(P)/N.R.S. letter No.9402/18-X(Eis) dated 20.3.82 and other Class II officers, who are junior to me have also been promoted in Sr. Scale. I have not been conveyed any remarks and the reasons as to why I have been superseded though during my past service. I have not been conveyed any remarks adversely on my working. It is also pointed out that Shri R.C. Jat and myself were posted at Lucknow from where Shri Jat has been transferred on promotion and therefore, this

promotion of Shri Jat is also not local arrangement. I held my claim of promotion prior to Shri Jat.

I view of the above facts, I am requesting to review my case and arrange for consideration of my promotion to Sr. Scale from the same date from which Shri B.G. Jat has been promoted and if there is any cause of withholding promotion, the same may please be conveyed to me.

Thanking you.

Dated April 1, 1982.

84/- 1.4.82

Gyan Singh
A.C.O.S. I/AMV/LEO.

20
A45

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Civil Misc. Writ Petition No. of 1982.

Gyan Singh ... Petitioner,
Vs.
Union of India and another ... Respondents.

ANNEXURE NO. 5

NORTHERN RAILWAY
DY. CONTROLLER OF STORE'S OFFICE, ALAMBAGH/LUCKNOW

No. E/6/897

Dated 16.6.1982.

To : Shri Gyan Singh, A.C.O.S./1,
N. Railway, Alambagh,
Lucknow.

Sub:- Appeal of Shri Gyan Singh A.C.O.S.1/AMV.

In reference to your appeal Dated : 06-05-1982 the Dy. C.P.O./G.
New Delhi has intimated as under vide his O.O. letter No. 728-E/190/81s
dated 9.6.82.

"The claim of Shri Gyan Singh for promotion to Sr. Scale was
considered when such promotions were made and his juniors promoted
and his case will continue to be considered."

Sd/-
For Dy. Controller of Stores,
N. Rly., Alambagh/Lucknow.

21

In the Hon'ble High Court of Judicature at Allahabad.

Lucknow Bench, Lucknow.

Civil Misc. Writ Petition No. 1 of 1983.

Gyan Singh ... Petitioner.
Vs.
Union of India and others ... Respondents.

ANNEXURE NO. 6

No. ACOS/1/Personal/82 Dated 4.10.82.

The General Manager (P)
Northern Railway,
Baroda House,
New Delhi.

Sir.

(THROUGH PROPER CHANNEL)

Subject :- Promotion of Gyan Singh, ACOS/AMV Depot/LKO in senior scale.

Reference:- My earlier letter No.ail dated 1.4.82.

2. letter No. GS/ACOS/1/AMV/Personnel/ dated 8.5.82 which was sent to Dy. COS/LKO vide his D.O. No. E/S/897 dt. 8.5.82.
3. Your D.O. No. 728-E/190/EIA dated 9.6.82.

In reference to above noted letters, again I am drawing your kind attention on the following points :-

- 1) I have completed more than 4½ years in junior scale Class-I having joined Indian Railway on 29.11.77 as probationer in the Stores Department through U.P.S.C.
- 2) Shri B.C. Jat who was junior to me has also been promoted in the senior scale vide G.M.(P)/NRLS letter No. 940-E/18X(EIA) dated 20.3.82 and also other class II officers who were junior to me.
- 3) Your reply against D.O. letter No. 728-E/190/EIA dated 9.6.1982 is not speaking as to why I was not promoted. I also have not been communicated any adverse confidential report against my working as per para 1611 (III).
- 4) It is learnt that Shri Piplani who is also junior to me is being considered for promotion in the senior scale.

Kindly call for my case and review it so that I may be

considered for senior scale as I am suffering financially and mentally because of not getting my promotion which is due to me.

Yours faithfully,

Sd/- 4.10.82

Gyan Singh

A.C.O.S./I/AMV/LRO.

I.C.S.S./B.Sly. from 1976 Exam.

To Dy.COS/AMV/LRO.

Advance copy to : (1) G.M.(P)N.Sly, New Delhi.

REGISTERED A.D.

(2) Director Railway Stores/Railway Board,
New Delhi.

(3) Chairman, Union Public Service Commission,
Chaulpur House, Shahjahan Road, New Delhi.

23

A-46

A/UX

In the Hon'ble High Court of Judicature at Allahabad.

Lucanow Bench, Lucknow.

Civil Misc. Writ Petition No. of 1983.

Gyan Singh

...

Petitioner

Vs.

Union of India and others ...

Respondents.

ANNEXURE NO. 7

Railway Board's letter No. M(GR)1170TH1 dated 23rd March 1971

Subject : Concessions to Scheduled Castes and Scheduled Tribes in posts filled by promotion - Class I Services/Posts.

In Railway Board's letter No. M(SCT)68CM15/10 dated 27th August 1968, Board's directives regarding certain reservations and other concessions to Scheduled Castes/Scheduled Tribes in posts filled by promotion have been circulated to the Railway Administrations.

The Railway Board have further decided that in order to improve the chances of Scheduled Castes/Scheduled Tribes Officer for selection to the higher categories of posts in Class I -

(1) Scheduled Castes/Scheduled Tribes Officers in Class I services/Posts should be provided with more opportunities for institutional training and for attending seminars/symposia/conferences. Advantage could in this connection be taken of the training facilities available on Indian Railways as well as at the Academy of Administration, Mussoorie, National Police Academy, Mount Abu, Indian Institute of Public Administration, New Delhi, the Administrative Staff College, Hyderabad etc.

(ii) It should be the special responsibility of the immediate superior Officers of the Scheduled Castes/Scheduled Tribes Officers in Class I to give advice and guidance to the latter to improve the quality of their work.

24

 $\frac{x}{u}g$

vs.

A F F I D A V I T

1. That the deponent is the petitioner of the above noted writ Petition and as such is well conversant with the facts of the case.

3. That the Annexures 1 to 7 of the accompanying Brit Petition

are true & copies and they have been duly compared with the originals.

Lucknow: Dated ;

January 14 . 1983.

Deponent.

VERIFICATION

I, the above named deponent, do hereby verify that the contents of paras 1 to 3 of this affidavit are true to my knowledge and no part of it is false and nothing material has been concealed, so help me God.

Signed and verified this day 14 of January, 1983 at High Court Compound, Lucknow Bench, Lucknow.

Lucknow: Dated ;

January 14 . 1983.

Deponent.

I identify the deponent who has signed before me.

Lucknow: Dated ;

January 14 . 1983.

Advocate.

Solemnly affirmed before me on

at a.m./p.m. by Sri Gyan Singh, aged the deponent who is

identified by Sri D.S. Chauke, Advocate, High Court of

Allahabad, Lucknow Bench, Lucknow.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which has been read out and explained by me.

make any further promotion to the Senior Scale of Class -I unless the case of petitioner is considered for promotion in the first vacancy on the basis of proper and relevant material.

Lucknow: Dated :

January 14, 1983.

Th

D.S. Chaube

(D.S. CHAUBE)

Advocate,

Counsel for the applicant petitioner.

A49

हाईकोर्ट इलाहाबाद, लखनऊ बेंच लखनऊ
(अध्याय १२, नियम १ और ७)

दीवानी विभाग

प्रकीर्णक (मुतफर्रिक) प्रार्थना सं० 655 ————— सन १९-83 ई०

————— सं ————— सन १९ ————— ई० में

————— जाय सिंह ————— प्रार्थी

————— प्रति ————— प्रत्यार्थी

प्रतिपक्ष —————

प्रतिपक्ष —————
प्रतिपक्ष —————
प्रतिपक्ष —————

चूंकि ऊपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त लिखे मुकदमें में —————
————— लिये प्रार्थना-पत्र दिया है, अतः आपको आदेश दिया जाता है कि
आप दिनांक — 23 — माह — 4 — सन १९-83 ई० को या उससे पहले उपस्थित
होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय । उक्त प्रार्थना-पत्र की
सुनवाई उसके बाद नियमानुसार विज्ञप्ति किसी और दिन होगी ।

विदित हो कि यदि आप ऊपर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी एडवोकेट
या ऐसे व्यक्ति द्वारा जो कानूनन अधिकृत हो, उपस्थित न होंगे तो उस प्रार्थना-पत्र की सुनवाई
और निर्णय आपकी अनुपस्थिति में हो जायगा ।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक — 22 — माह — 4-83
सन १९ — — — को जारी किया गया ।

डी. रजिस्ट्रार के एडवोकेट

तिथि 4-4-83



डी. रजिस्ट्रार
इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १९५२ की नियमावली के अध्याय ३७ नियम २ के आधीन प्राप्त तलबाना
मिल गया ।

तलबाना प्राप्त करने वाले वक्ता के हस्ताक्षर

3005 10 58

A 50

हाईकोर्ट इलाहाबाद, लखनऊ बेंच, लखनऊ
(अध्याय १२, नियम १ और ७)

१५

दीवानी विभाग

प्रकीर्णांक (मुतफर्रिक) प्रार्थना सं० ६५८ सन १९८३ ई०

सं० सन १९८३ ई० में

जान सिंह प्रती

प्रतिपक्ष इन्डिया स्टेट्स लिमिटेड प्रत्यार्थी

प्रतिपक्ष इन्डिया स्टेट्स लिमिटेड

सुप्रीम कोर्ट ऑफ इंडिया, नया दिल्ली

वर्तमान में नया दिल्ली

चूंकि ऊपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त लिखे मुकदमें में

लिये प्रार्थना-पत्र दिया है, अतः आपको आदेश दिया

जाता है कि आप दिनांक 23 माह 12 सन 1983 ई० को या उससे पहले

उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना-पत्र
वै मुनवाई उसके बाद नियमानुसार विज्ञापित किसी और दिन होगी।

दिनांक पर या उससे पहले स्वयं अथवा किसी
अधिवक्ता के द्वारा उपस्थित न होंगे तो उस प्रार्थना-पत्र की
निराकरण जायगा।

आज दिनांक 22 माह 4 सन 1983

Re
addr
.....
.....
Sig. of Rec
To be fill
Insured for
Insurance se



Tandon

डिप्टी रजिस्ट्रार
इलाहाबाद / लखनऊ

सूचना—इस न्यायालय की १९५२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त
तलबाना मिल गया।

तलबाना प्राप्त करने वाले बल्क के हस्ताक्षर

हाईकोर्ट इलाहाबाद, लखनऊ बेंच, लखनऊ
(अध्याय १२, नियम १ और ७)

दीवानी विभाग

प्रकीर्णक (मुतफरिफ) प्रार्थना सं० ६५५/८३ सन १९८०
सं० सन १९८३ ई० में

— जग सिंह — प्रार्थी

— अनिल कुमार झा — प्रति
— अनिल कुमार झा — प्रत्यार्थी

नारंग

— अनिल कुमार झा —

— संजय कुमार झा —
— ललिता देवी —
— ललिता देवी —

चूंकि ऊपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त लिखे मुकदमें में

लिये प्रार्थना-पत्र दिया है, अतः आपको आदेश दिया

जाता है कि आप दिनांक २३ माह १९८३ सन १९८३ ई० को या उससे पहले

उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञापित किसी और दिन होगी।

बिदित हो कि यदि आप ऊपर लिखे दिनांक पर या उससे पहले स्वयं या किसी एडवोकेट या ऐसे व्यक्ति द्वारा जो कानूनन अधिष्ठत हों, उपस्थित न होंगे तो उस प्रार्थना-पत्र की सुनवाई और निगूय आपकी अनुपस्थिति में हो जायगा।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक २२ माह १९८३ को जारी किया गया।

— श्री २२२ — के एडवोकेट

तिथि ४.४.८३



— Tandon —

डिप्टी रजिस्ट्रार
इलाहाबाद / लखनऊ

सूचना—इस न्यायालय की १९५२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त तलबाना मिल गया।

तलबाना प्राप्त करने वाले वलर्क के हस्ताक्षर

N.R.

VAKALATNAMA



Before
In the Court of

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow
W.P. No. 655 of 1983

Sri Gyan Singh

Plaintiff
Defendant

Claimant
Appellant
Petitioner

Union of India and others

Defendant
Plaintiff

Versus

Respondent
Opp-party

The President of India do hereby appoint and authorise Shri. Siddharth Verma, Advocate
C-16, K-Road, Mahanagar Extension, Lucknow

to appear, act, apply, plead in and prosecute the above described suit/appeal/proceedings on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/Pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceedings against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate of Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agrees to ratify all acts done by the aforesaid Shri. Siddharth Verma, Advocate
in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the 23rd May, 1983

Dated 23.5.1983

N.R.—149/1—June, 1981—75.00 F.

Accepted
Shri
(Siddharth Verma)
Advocate

Designation of the Executive Officer
Addl. Chief Personnel Officer,
Northern Railway, New Delhi

10/1
In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Civil Misc. Application No.

14020 5
(W) of 1983.



In re :

Writ Petition No.655 of 1983

Sri Gyan Singh

... Petitioner

Versus

Union of India and others

... Opposite parties/
Applicants.

Application on behalf of opposite parties/
Applicants for condonation of delay in filing
Counter Affidavit.

This application on behalf of opposite parties/
applicants most respectfully sheweth :-

- 19072
1. That the counter affidavit on behalf of opposite parties in the above mentioned writ petition could not be filed in time for want of instructions
 2. That this delay in filing counter affidavit is unintentional and has not caused any adjournment of hearing.

WHEREFORE, it is most respectfully prayed that in the interest of justice, this Hon'ble Court may be pleased to condone the delay in filing counter affidavit and the same which accompanied this application may kindly be directed to be brought on record.

SD
19/14
235-83
Lucknow, dated
12.12.83

Siddharth
(Siddharth Verma)
Advocate,
Counsel for the opposite-
parties

A 93 5/2

In the Hon'ble High Court of Judicature at Allahabad
Lucknow Bench, Lucknow.

Writ Pet. No.655 of 1983.

Sri Gyan Singh

... Petitioner.

Versus

Union of India and another

... Opp-parties-
Respondents.

Counter-affidavit on behalf of opposite-
Parties no. 1 and 2.

I, Rajinder Lal Dhawan, aged about 51 years,
son of Late Shri C.L.Dhawan, presently working as Deputy
Chief Personnel Officer (Gazetted) Northern Railway Head
Quarters' Office, Baroda House, New Delhi, affirm and
state on oath as under :-

1. That the deponent is presently working as Deputy
Chief Personnel Officer, Northern Railway Head Quarters
Office Baroda House, New Delhi and is well conversent with
the facts deposed hereunder. The deponent is authorised to
file this affidavit on behalf of respondents no.1 and 2.
2. That the contents of paragraph 1 of the writ
Petition need no comments as they relate to the reasons
for filling this writ petition. However, it is most
respectfully submitted that the petitioner has not
impleaded Sarvasri S.C.Jat, Udesb Kumar J.Mandal and
K.C. Mukhi against whose promotions the petitioner has
allegedly been aggrieved hence they are the necessary
parties. This writ petition is liable to be dismissed
for want of necessary parties.
3. That the contents of paragraphs 2 to 8 of
the writ petition are not denied.



[Handwritten signature]

4. That the contents of paragraph 9 of the writ petition are admitted only to the extent that Sri Gyan Singh, A.C.O.S. was entitled to be considered for promotion to Senior Scale. He was considered for promotion to Senior Scale, but was found unfit for such promotion. It is a fact that Shri R.C.Jat, his junior, was found suitable for promotion to Senior Scale and was promoted as such.

5. That the contents of paragraph 10 of the writ petition are not admitted. It is further submitted that as per extant rules when no eligible class II Officer with 3 years service is available, Class I Officers having more than 3 years service can be considered for adhoc promotion to Senior Scale.

6. That the contents of paragraph 11 of the writ petition are not denied as it merely relates to the Railway Board's circular under reference.

7. That the contents of paragraphs 12 to 15 of the writ petition, as stated, are not admitted. It is most respectfully submitted that the adverse remarks in confidential report for the year ending 31.3.1980, were noted by Shri Gyan Singh on 12.9.1980. He could prefer his representation within 14 days as per extant instruction but he did not prefer any representation within the stipulated period. His representation dated January 1981 was received on 19.3.81. Since this representation was time-barred the competent authority did not find any justification to make any change in the Confdl. Report for the year ending 31.3.80 and Shri Gian Singh was advised accordingly copy of reply given to Shri Gyan Singh is enclosed as Annexure-I.



The adverse remarks in confidential report for the year ending 31.3.1981 were noted by Shri Gyan Singh on 22.8.1981. Shri Gyan Singh preferred a representation on 4.9.1981, against the adverse remarks in the confidential report. The representation was dealt with as per extant rules on the subject and the decision of the competent authority was advised to Shri Gyan Singh on 16.6.83.

It is evident that plea of the petitioner that he was not afforded an opportunity to represent against the adverse remarks contained in his confidential reports is baseless.

8. That the contents of paragraph 16 of the writ petition are admitted to the extent that the appeal of the petitioner dated 1.4.1982 was considered and he was replied accordingly.

9. That the contents of paragraph 17 and 18 of the writ petition are admitted.

10. That the contents of paragraph 19 of the writ petition are admitted to the extent that the appeal dated 4.10.82 of the writ petitioner was received and considered. Since no new facts were brought therein, no reply was warranted.

11. That the contents of paragraph 20 of the writ petition as stated are not admitted. Sarvasri R.C.Jat, Class I Officer and Udesb Kumar, J. Mandal and K.C.Mukhi who are Class II Officers, have been appointed to officiate in senior scale on adhoc basis as per extant rules.

12. That the contents of paragraph 21 of the writ



[Handwritten signature]

petition, as stated, are not admitted that

Shri Gyan Singh has not been appointed to officiate in Senior Scale on the basis of his performance reflected in his Confidential Reports, other officers have been appointed to officiate in Senior Scale as per rules.

13. That the contents of paragraph 22 of the writ petition are admitted. It is most respectfully submitted that as stated in the fore-going paragraph 10, the reasons for non issue of reply have been explained.

14. That the contents of paragraph 23 of the writ petition are not admitted. It is most respectfully submitted that the petitioner has not been promoted to Senior Scale on the basis of his adverse confidential reports.

15. That the contents of paragraph 24 of the writ petition, as stated, are not admitted.

It is most respectfully submitted that the respondents have not exercised their powers either arbitrarily and/or illegally. The reasons for non-promotion of petitioner to the Senior Scale were duly communicated to the petitioner and every possible opportunity was afforded to him to present his case.

16. That the contents of paragraphs 25 and 26 of the writ petition are not admitted. The petitioner's claim for promotion to Senior Scale was duly considered but he was not selected on the basis of his adverse confidential reports.



[Handwritten signature]

A 57
5/6

17. That the contents of para 27 of the writ petition are not admitted. It is most respectfully submitted that the provisions laid down in Railway Board's directives contained in their letter No.E(GT)II 70 TRI/47 dated 23.3.71 were duly complied.

18. That the contents of paragraph 28 are not admitted. In view of the submissions made in the foregoing paragraphs the present writ petition is liable to be dismissed with costs as it has no merit.

19. That the contents of paragraphs 29 of the writ petition are not admitted. However it is most respectfully submitted that no cause of action ever arose in favour of the petitioner.

20. That in reply of the paragraph 30 of the writ petition it is most respectfully submitted that in view of the submissions made in the foregoing paragraphs, the grounds enumerated (i) to (vi) in this paragraph are untenable and this writ petition is liable to be dismissed with costs.

12.11.1983

New Delhi, dated 25/8/1983

Deponent.

Verification.

I, the deponent abovenamed do hereby verify that the contents of paragraph I are true to my knowledge and those of paragraphs 2 to 17 are based on record available to the deponent and the contents of paragraphs 18 to 20 are based on the legal advice rendered by his counsel and the same are believed by me to be true.

CERTIFIED that the deponent Verified on this 25th day of August'1983

Sh. ...
S/o Sh. ...
identified ...
has solemnly affirmed before me at ...
N. Delhi on ...
that the contents of this affidavit which
have been read over & explained to him are
true and correct to his knowledge.

Oath Commissioner,
High Court of Delhi

23.8.1983



I identify the deponent who is personally known to me and who has signed in my presence.

*Deponent Des II (P)
As per Bara Station
C-210 24359. 25/8/83*

5/7
A 56
X/6
Annexure-I

NORTHERN RAILWAY


Headquarters Office
Baroda House New Delhi.

Confidential
No.E-106/3041/

Dated 16th June, 1983.

Shri Gyan Singh,
Asstt. Controller of Stores,
Northern Railway,
Lucknow.

Through Dy.COS/AMV-LKO.



Your representation dated January, 1981 received in this office on 19/3/1981, against the adverse remarks recorded in Section-I of your Confidential Report for the year ending 31.3.1980, in respect of your working as ACOS/ETD/CNB which were noted by you on 12.9.1980, has been considered by the competent authority. He find no justification to make any change in the said report since you did not prefer your appeal within the stipulated period of 14 days after having noted the adverse remarks on 12.9.1980.

Please acknowledge receipt.

Sd/-
(GANESH DAYAL)
Asstt. Secy./Confidential.
for General Manager.

pm

A59 6

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.



43406/84
4/2

Writ Petition No.655 of 1983.

1 Extra Rs 5/-
13/4/84
Gyan Singh.

Petitioner.

Versus.

Union of India and
another.

Opp. Parties.

Application for condonation of delay

5221

For the facts and reasons disclosed in
para 23 ~~xx~~ of accompanying rejoinder affidavit, it is
humbly prayed that the Hon'ble Court may be graciously
pleased to condone this delay in filing of this
rejoinder affidavit and the same may please be ordered
to be brought on the record of the same.

Lko. Dated:

March 30, 1984.
13/4

D.S. Chaube

(D.S. Chaube)
Advocate.
Counsel for Petitioner.

A606/2

In the Hon'ble High Court of Judicature at Allahabad.

Lucknow Bench, Lucknow.

In Re.

Writ Petition No.655 of 1983.



Gyan Singh.

Petitioner.

Versus.

Union of India and
another.

Opp. Parties.

Rejoinder Affidavit of petitioner to the
counter affidavit filed on behalf of
opposite parties No.1 and 2.



I, Gyan Singh aged about 30 years, Son
of Shri Durjan Singh, Assistant Controller of Stores,
Northern Railway, working at Alambagh General Stores,
Depot, Lucknow, do hereby solemnly affirm and state
on oath as under:-

1. That the deponent is the petitioner in
the above writ petition and is well conversant with
the facts deposed to hereinafter.
2. That the deponent has read the counter
affidavit filed on behalf of opposite parties No.1 & 2

Handwritten signature

AGI
6/3
8/4

and has understood its contents.

3. That the contents of para 1 of counter affidavit need no reply by the deponent.

4. That the contents of para 2 of counter affidavit are misconceived and are denied. Sarva Shri R.C. Jat, Udesb Kumar, J. Mandal and K.C. Mukhi are neither necessary parties nor proper parties so far as the relief claimed for in the writ petition is concerned. Therefore, there is no question of impleading them as opposite parties in this case. The writ petition is not directed against any individual but the same is directed against the opposite parties i.e. Union of India and Northern Railway and the prayer made therein is to issue a writ of mandamus commanding them to consider the petitioner for promotion according to law and to give him full benefits as admissible under the rules.



5. That the contents of para 3 of counter affidavit do not dispute the averments made in paras 2 to 6 of writ petition which are reiterated.

6. That in reply to para 4 of counter affidavit, it is stated that according to rule, the promotion to senior scale is to be made on the principle of seniority subject to rejection of unfit. According to a senior officer has to be promoted unless he is

41

162 6/11/85

declared unfit to hold the post in senior scale. It is not disputed that the promotion of his next junior Shri R.C. Jat was made in March, 1982. At that time, the annual confidential reports upto the year 1980-81 were only available. The petitioner joined service on 29-11-1977. He earned good reports during the years 1977-78 and 1978-79. However, section 1 of his annual confidential reports for the years 1979-80 and 1980-81 contained certain adverse remarks. In respect of adverse remarks for the year 1980-81, it is submitted that the petitioner made representation on 4-9-1981, a true copy of which is enclosed as Annexure-R-1 to this rejoinder affidavit. His representation remained undecided and the adverse entry for the year 1980-81 had not become final so as to be considered in the matter of promotion to the senior scale in March, 1982. It appears that the promotion of the petitioner was prejudiced on account the adverse remarks recorded in section-1 of the report for the year ending 31st March, 1981. The adverse remarks were subsequently expunged by the competent authority from his character roll as per decision communicated in letter No.E-106/3041 dated 16-6-1983 from the General Manager, Northern Railway. A true copy of above letter is enclosed as Annexure R-2 to this rejoinder affidavit. It is, therefore, evident that any decision taken to withhold the promotion on the basis of these adverse remarks cannot be upheld and decision taken on the basis of



Signature

183 6
15

wrong and irrelevant material has to be reviewed by the competent authority according to law on the basis of proper and relevant material. Another adverse remarks recorded in section-1 of the confidential report for the year ending 31st March, 1980 was shown to the petitioner on 12-9-1980. He made representation on January 1981 and the same also remained undecided at the time of promotions of juniors made in March 1982. A true copy of representation made on January 1981 is enclosed as Annexure R-3 to this rejoinder affidavit. Therefore, the same was also not final and relevant so as to take any adverse decision in the matter of promotion.

7. That in reply to para 5 of counter affidavit, it is stated that the opposite parties have not furnished copy of any rules referred to therein. Moreover, the statement made in para 5 of counter affidavit is vague and misleading. The averments made in para 10 of writ petition are reiterated.

8. That the contents of para 6 of counter affidavit need no reply by the deponent.

9. That the contents of para 7 of counter affidavit are misconceived and are denied. The averments made in paras 12 to 15 of writ petition are reiterated. During the year 1979-80, the petitioner ^{was} holding the post of Assistant Controller of Stores at Electric Traction Depot, Kanpur. His immediate superior was Senior



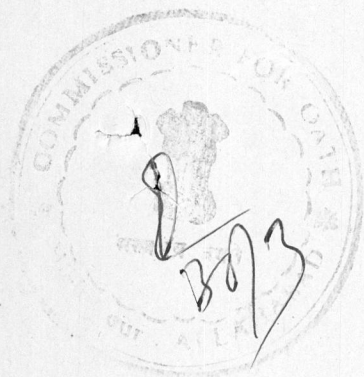
[Handwritten signature]

Divisional Electrical Engineer, Kanpur (Shri V.K. Agarwal). The petitioner was working under his administrative control. The section-1 of confidential report for the year 1979-80 was initiated by Shri V.K. Agarwal, Senior Divisional Electrical Engineer, Kanpur on 2-8-1980 and the same was shown to the petitioner on 12-9-1980. The petitioner was not told that he was required to make representation within a period of 14 days. The report of Senior Divisional Electrical Engineer was required to be routed through Deputy Controller of Stores, Alambagh Stores Depot, Lucknow and Controller of Stores, Northern Railway, New Delhi before submission to the General Manager, Northern Railway, New Delhi. This can be substantiated from the instructions contained in letter of General Manager, Northern Railway, New Delhi. However, during conversation with his superiors, the petitioner came to know that section-1 of the confidential report for the year ending March 31, 1980 was submitted to General Manager, Northern Railway, New Delhi through the Divisional Railway Manager, Northern Railway, Allahabad and Chief Electrical Engineer, N.R., Delhi. This seriously prejudiced the confidential report of petitioner for the year 1979-80 because the technical problems of stores which could have been properly appreciated by his Deputy Controller of Stores and Controller of Stores could not be well appreciated by the officers of electrical engineer branch. The petitioner wanted to enquire from the reporting officer as to why the petitioner was not informed



Q1

about the prescribed period of 14 days for submission of representation. The petitioner was told that the ~~Exe.~~ instructions contained in D.O. No.E-106/O/P-2 dated 12-3-1980 issued to the reporting officers in respect of recording of confidential reports of officers for the year ending 31st March, 1980 did not provide that such representation against the adverse entry recorded in section-1 of the confidential report was required to be submitted within a period of 14 days. In fact, the period of 14 days for submission of such representation was prescribed in subsequent years. The opposite parties committed wrong in treating the representation of petitioner as time barred and ~~given~~ giving no consideration to the representation at all. It is, reiterated that according to the provisions of para 1611 of Establishment Code Volume-I, the Head of Department is required to communicate the gazetted railway servant concerned, the section-1 adverse portion of the report in substance together with any remarks in section-II which the General Manager may indicate. The Code further provides that the ^{adverse} remarks should be communicated only as finally accepted by the General Manager. In the case of petitioner, the adverse entry was not at all communicated after final approval by the General Manager and therefore, the petitioner was not given any opportunity to make representation against the recording of adverse entry finally. Therefore, this uncommunicated adverse entry cannot be



Signature

acted upon to make any adverse decision against the petitioner. It is further submitted that the petitioner worked under the administrative control of Shri V.K. Agarwal, Senior Divisional Electrical Engineer for the period September, 1979 to March, 1980 and for the remaining period from April, 1979 to 28th May, 1979, he remained under the direct control of Controller of Stores, Northern Railway as he was under training and from 29-5-1979 to September, 1979, he remained under the administrative control of Shri Y. Singh, Senior Divisional Electrical Engineer, Kanpur. It was therefore, illegal on the part of Shri Y.K. Agarwal to record adverse entry for whole of the year 1979-80. It appears that the reports from Shri Y. Singh and from Controller of the Stores, Northern Railway, New Delhi were deliberately not obtained with the sole malafide intention of damaging the service career of petitioner. It is further submitted that an unjustified adverse entry was recorded for the year 1980-81 by the same reporting officer which was ultimately expunged, although, after abnormal delay of three years. This resulted in supersession of petitioner for promotion to the senior scale. The same adverse entry which was found to be unjustified in the year 1980-81 cannot be supported on any ground so as to make a justification for being kept the same in the report for the year 1979-80. It is reiterated that the petitioner was never given an opportunity to make representation against the adverse entry for the year 1979-80 as it finally accepted by the



[Handwritten signature]

Act 6/9 No

General Manager. It is further submitted that after the rejection of his representation by letter dated 16-6-1983, the petitioner made representation on 5-7-1983 followed by reminders ~~dated 1-9-1983 and 17-11-1983~~ dated 1-9-1983 and 17-11-1983. True copies of representations on 5-7-1983 and 1-9-1983 are enclosed as Annexures R-4 & R-5 respectively to this rejoinder affidavit. No consideration of this representation was also given as per communication made on behalf of opposite party No.2 in letter No.E-106/3041 dated 24-11-1983. A true copy of this letter is also enclosed as Annexure R-6 to this rejoinder affidavit. The petitioner has also submitted representation on 24-3-1984 to the Secretary, Railway Board for consideration in the matter.

10. That in reply to para 8 of counter affidavit, it is stated that the representation of petitioner was rejected by a non-speaking communication made to him. No order of competent authority was communicated to him and he was also not furnished any reason as to why his representation was not found acceptable and the grounds on which ^{he} was superseded in promotion to senior scale.

11. That the contents of para 9 of counter affidavit do not dispute the averments made in paras 17 and 18 of the writ petition.

12. That in reply to para 10 of counter affidavit the averments made in para ~~10~~ 19 of writ



GL

A 68 6/10

petition are reiterated. The representation dated 4-10-1982 made by petitioner still remains unreplied. ~~XX~~

13. That the contents of para 11 of counter affidavit do not dispute the averments made in para 20 of writ petition. It is reiterated that the petitioner was discriminated in the matter vis-a-vis others who were given promotion in senior scale and he was arbitrarily and mechanically left over.

14. That the contents of para 12 of counter affidavit are not correct. The petitioner was left over in the matter of promotion to senior scale only on the basis of adverse entries for the years 1979-80 and 1980-81. The adverse entry for the year 1980-81 was subsequently found unjustified and has already been expunged. The adverse entry for the year 1979-80 as finally approved by the General Manager has not been communicated to the [✓]petitioner and therefore, the same cannot be treated as final so as to take any adverse ~~in~~ decision in the matter of promotion of petitioner. The same shall be deemed to be as un-communicated and the action to withhold promotion on that basis deserves to be set aside by this Hon'ble Court.

15. That the contents of para 13 of counter affidavit are evasive. It appears that the opposite parties are deliberately avoiding to furnish a straight reply giving the reasons as to why the petitioner was



Signature

464 6/11

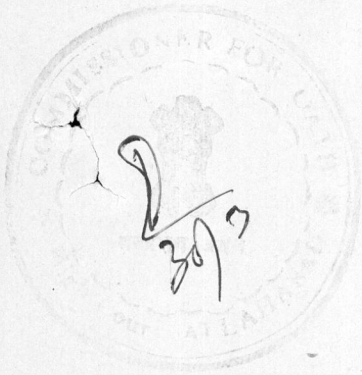
left over in the matter of promotion to senior scale. ~~xx~~
The averments made in para 22 of writ petition are reiterated.

16. That the contents of para 14 of counter affidavit are not correct. The averments made in para 23 of writ petition are reiterated.

17. That the contents of para 15 of counter affidavit are misconceived and are denied. No reason has been disclosed to declare the petitioner unfit for promotion to the senior scale. It is wholly wrong and misconceive to contend that the petitioner was given any opportunity to present his case before with-holding of his promotion.

18. That the contents of para 16 of counter affidavit are misconceived, vague and are denied. The averments made in paras 25 and 26 of writ petition are reaffirmed as correct. It is reiterated that the petitioner is a member of scheduled caste and he has a legal and fundamental right to get proper treatment in the matter of promotion to senior scale as per government orders issued from time to time which continues to be denied to him.

19. That the contents of para 17 of counter affidavit are vague, evasive and are denied. The averments made in para 27 of writ petition are reiterated



Signature

A68 6
12
A/12

The petitioner was illegally and discriminately treated in the matter of promotion and what to say of giving him preferential treatment on account of being a member of scheduled caste, even his legal and fundamental right of proper consideration on the basis of proper and relevant material in the matter of promotion was denied.

20. That the contents of para 18 of counter affidavit do not have any force and are based on imagination. The writ petition deserves to succeed with full benefits as well as cost of petition.

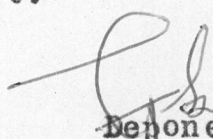
21. That the contents of para 19 of counter affidavit are evasive and are denied. The cause of action mentioned in para 29 of writ petition is reiterated.

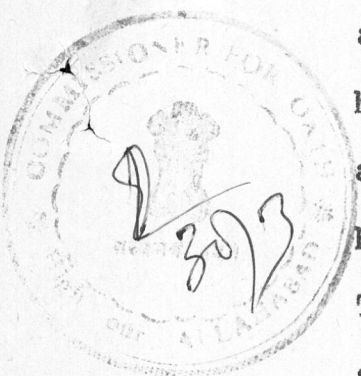
22. That the contents of para 20 of counter affidavit do not have any force. The opposite parties have not furnished any cogent reasons to justify their arbitrary, illegal and discriminatory action of withholding the promotion of petitioner to senior scale. The writ petition is based on cogent reasons and forceful grounds of facts and law and the same deserves to succeed with cost of petition.

23. That there has been some delay in filing of this rejoinder affidavit as certain papers required for preparation of rejoinder affidavit were not readily available and it naturally took some time in collecting the same. The delay is bonafide and deserves to be condoned by this Hon'ble Court.

Lko.Dated:

March 30, 1984.


Deponent.



A69 6
13

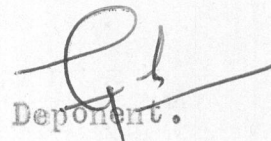
VERIFICATION

I, the deponent, named above, do hereby verify that the contents of paras 1 to 5, 7, 8, 10 to 13 & 15 to 23 are true to my personal knowledge and those of paras 6, 9 and 14 are believed by me to be true on the basis of information derived from records. No part of it is false and nothing material has been concealed. So help me God.

Signed and verified that this 30th day of March, 1984 at Lucknow.



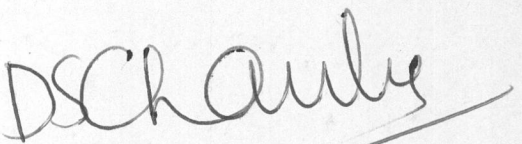
Lko. Dt.


Deponent.

March 30, 1984.

I identify the deponent who has signed before me.

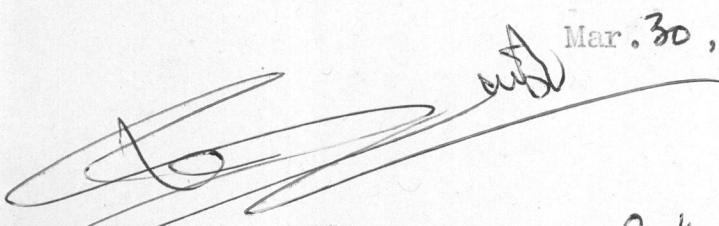
Lko. Dt.


(D.S. Chaube)
Advocate.

Mar. 30, 1984.

Solemnly affirmed before me on 30/3/84 at 9-10 a.m./p.m. by Gyan Singh the deponent, who is identified by Shri D.S. Chaube, Advocate, High Court of Allahabad, Lucknow Bench, Lucknow.

I have certified myself by examining the deponent that he understood the contents of this rejoinder affidavit, which has been read over and explained by me.


High Court, Allahabad
Lucknow Bench

437352/84
30/3/84

AHO 6/14

A/S

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
(LUCKNOW BENCH LUCKNOW)

WRIT PETITION NO. OF 1984

Gyan Singh

.....Petitioner

Vs.

Union of India & Others.

..... Opp.Parties.

Annexure No. R-1

NORTHERN RAILWAY

Regd. A.D.
Confidential

GYAN SINGH

ACOS/I/AMV/LKO.

D.O. No. GS/ACOS/AMV/LKO/II

Dated: Sept. 4, 1981.

Dear Sri Agarwal,

Sub:- Explanation against CR PE 31st March, 1981
initiated by Sri V.K.Agrawal, Sr.DEE/RS/CNB.

.....

A copy of parawise explanation of every point
of the CR which was written by you on 5.8.81 and
communicated the same to me on 22.8.81 is enclosed
herewith for your necessary action please.

With kind regards,

Yours sincerely,

Sd/-

(Gyan Singh)
ACOS/I/AMV/LKO.

Sri V.K. Agrawal,
Sr. Divl.Elec. Engg.
Northern Railway
Electric Loco shed
Kanpur.

Enc: (i) 3 pages representation.

(ii) 3 pages representation of last

year CR. 31.3.80. along D.O.Letter
No.CS/ACOS/ETD/CNS/II dt. Jan'81.

Sh

A.H. 6/15
8/10

C.C.to Sri S.C. Goel, Dy.COS/AMV/KLKO for information and necessary action please.

(ii) Sri K.C. Tandon, Addl.COS(II)/HQ/KDLS.

(iii) Asstt. Sec. to G.M.(Gaztt)/HQ/N.Rly/NDLS.

REPRESENTATION AGAINST THE CR FOR PE 31st. MARCH,81 WHICH WAS INITIATED BY Sr.D.E.E.(RS)CNB. SHRI V.K. AGRAWAL.

In reference to the remarks in the above CR which was initiated by you on 5.7.81 and the same was shown to me after a gap of 17 days i.e. on 22.8.81, I would like to make following points:-

Last year, my CR was communicated to me on 12.9.80 and I proceeded on leave from 1.12.80 to 27.12.80 after that you proceeded on leave i.e. from Jan.81 onwards then on 4.4.81 I was transferred to Adv. Stores, Lucknow.

Thus the present CR i.e. year March,81 is showing my working not for 2-1/2 months. It is my personal opinion that the impression which has been made about me in a complete year can not be changed in such a small span of time. However, I am furnishing my remarks and I am enclosing the representation of last year's CR for the period 31.3.80- also for your reference purposes along with all the necessary statistical figures.

1. Technical ability- (Sr. DEE/RS/CNB's remarks)-
(His approach towards various technical problems of Stores-management has been negative).

Explantion+- You have simply written that my approach towards stores management has been negative whereas last year I was told that I never bothered about the technical development of material management. In this regard, I request you to see point 1 of page No.(1) of the representation of last year. Besides this I always bothered about the technical development whatever took place in

COMMISSIONER FOR
30/3

S.L.

Electric Loco but I am very sorry that I was not guided by you even at a single step.

2. How the officer has squitted himself in the management of his technical work. Office & staff. (Sr.DEE/CB.CNB's remarks)-(The officer has not been able to ~~magag~~ manage the stores depot and is not receptive to guidance. Does not even know the systematic way of working).

Explanation: Last year the same remarks was conveyed to me when you could not find any change in two and half months, it is very difficult to convince what I actually had done in the whole year However, I am giving my explanation as follows:-

The working of Stores is systematic of not, only a Stores officer can understand better because he is supposed to be thorough with all procedures and rules and regulars but as far as consumer is concerned he is concerned only ~~which~~ with the avilability of material which may be affected very badly sometimes when the funds of consumer lapses due to not consumingthe material which as already been purchased or the excessive demands of consumers are entertained. So when the inventory control is watched, consumer gets unsatisfied, this might be one of the reasons which has proved my working unsatisfactory.

For the better explantation point No. 2 of my rep resent-ation of 31.3.81 may be referred which has also been enclosed with this representation.

3. 3ptitude displayed for any special type of work
Sr.DEE/RS/CNB's remarks:-(Has displayed absolutely no aptitude, is rather immature).

Explanation:- Again I am starting as I stated in my

A 73 6/17
A/13

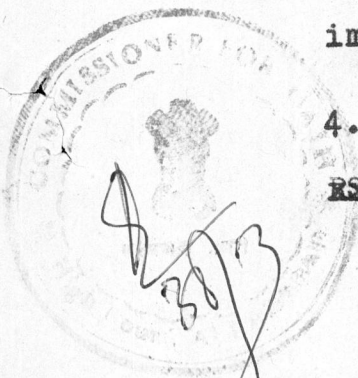
-4-

representation of last year against this point that it is highly incorrect to say that my behaviour is immature though the present Cr is showing my behaviour for 2-1/2 months i.e. 25.9.80 to 4.12.80, I am very sure that no instance was brought to my notice in this period which can prove my behaviour remained immature. It is very much surprising to know that how my behaviour was immature as far as displaying of my aptitude I was kept busy in supplying the material through local purchase mainly the non-stock items and I could not devote sufficient time to stock items which were much more important for out-turn of Elec. Loco Shed. With these difficulties time procurement action was taken either through balance return or R/Sheet and I did not invite any complaint from Elec. Coco Side.

Thus it is very incorrect to say that my behaviour was immature.

4. His tact & ability to deal with labour (Sr.DEE/RS/CNB's remarks)- H is incapable to dealing with labour. Since he himself does not apply in work the staff below him also have a tendency to avoid work).

Explanation:- This is an stores type remarks as it was given in the G.R. of 80, again I am stating that during my stay at ETD/CNB from 29.5.79 to 4.4.81, I have not come across even a single strike of labour or any disturbances of my labour and few goonda element entered in my cabin and they tried to man handled me without any reason and this thing was brought into your kind notice but I am sorry to state that this incident was shielded. My labour was not having any problem with the staff of Elec. Loco Shed who used to come to my depot to get done few wrongful



Signature

A-7A 6/15
8/29

things in regards to issue of the material without following the correct procedure.

It is very suprising to say that my staff had a tendency to avoid work because you never had even a single check-if it was so you could have pointed out to me atleast once. All the procurement actions and inventory actions have been taken timely which clearly shows that there was no such tendency of my staff to avoid the work.

Sometimes, my staff was directly ordered by your AEE, DEE.etc. and he obeyed them with equal respect and gave the desired output. Thus it is also incorrect to say that I was incapable of dealing with labour and my staff had tendency to avoid work.

5. Brief comments on his relationship with his colleagues, Officers above and below him and these others with then he comes in contact (Sr.DEE/RS/CNB's remarks)-

Has not been able to maintain cordial relations with colleagues officers above and staff below him. He has also foiled in keeping good relations with other stores officers and Accountant Officer).

Explanation:- Please refer your remarks of this column of the SB. of 31.2.80. It is also a stereee type remarks and my explanation which I gave against this vide my D.O. letter No.CS/ACOS/STD/CNB/II Dated Jan. 81 holds good. My relation with all the officers who are above on me and below me are very good and appreciable. I used to hold various meeting with Stores Officers and Shed Officers frequently for chasing and other material problems and I got full co-operation from them. These things clearly



Signature

A 78 6/19
X/40

-6-

prove that my relations with every officer whom I came in contact were very good and I was having cordial relations with ~~him~~ them.

I am very much surprised that how this conclusion has been draw about me without going into the details of it. If my relations were poor it was very difficult to solve all the accounts problems i.e. payment, vetting, to get technical knowledge of material from other shed officers when ever it was required.


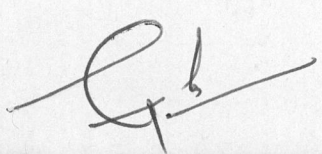
6. Any special comments on his trials of charactors, his general conduct and behaviour:-

(Sr. DEE/RS/CNB's remarks) (Because of his inability to deliver good work, he quite often irritates other persons, He is more interested in excuses then doing any good work)

Explantion:- I have never made any person who never came in contact with me irritated due to non -cooperation. Sometimes, I appraciated the urgency of material and I tried to sálve it and made the required material available out of way. I always used explain everything in such a polite and respected way one can not even imagine. Whenever I came in your contract I had never such problem and never felt that I had irritated you even in a single instance during my stay at Kanpur.

8. Any adverse remarks including penalties imposed or warnings, displeasures communicated.

(Sr. DEE/RS/CNB's remarks)- (He has been told several time to improve, but he failed. He is immune to advise and guidance. S ummerising, he is immature, and believes more in excuses than doing any good work).

A 79 6/20
A/81

Explanation:- So far I remember hardly I have come across a single instance that I had under excuse instead of doing anywork I tried my best and gave come output, sometimes I came out from the regular procedure of Stores, wherever, urgency and necessity was observed. It is very incorrect to say that my behaviour is immature and I used to believe in more in excuses than doing any good work.

It is my request that you please go through the remarks of my enclosed D.O. letter No. CS/ACOS/ETD/CNB/II dt. Ja. 81 page 3 and I am sure that you may also get a feeling that my working has never been unsatisfactory till 4.4.81

At last, I request you to review all your remarks which you given in my CR of March, 81 with this representation before passing any remarks to concerned authorities.

(GYAN SINGH) 4.9.81
ACOS/Amv. Lko

Dt. 4 Sept. 81

.....

Hse 6/21

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD.
(LUCKNOW BENCH) LUCKNOW.

WRIT PETITION NO..... 655 of 1983.

Gayan Singh

Petitioner.

Versus

Union of India and another

Opp. Parties.

ANNEXURE NO. R-2

NORTHERN RAILWAY

Headquarters Office
Baroda House
New Delhi.

Confidential.
No. E-106/3041

Dated 16th June, 1983

Sri Gyan Singh,
Asstt. Controller of Stores,
Northern Railway,
Lucknow.

Through Dy. COS/AMV/LKO.

Your representation dated 4.9.1981 against the adverse remarks recorded in Section I of your Confidential report for the year ending 31.3.1981 in respect of your working as ACOS/ETD/CNB and noted by you on 22.8.1981, has been considered by the competent authority, who has decided that the adverse remarks be expunged.

Please acknowledge receipt.

Sd/- Ganesh Dayal,
Asstt. Secy (Confidential)
for General Manager.

(TRUE COPY)

Ag 6/52

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD.

(LUCKNOW BENCH) LUCKNOW.

WRIT PETITION ~~XX~~ NO..... 655 of 1983

Gayan Singh

Petitioner.

Versus

Union of India and another

Opp. Parties.

ANNEXURE NO. R-3

NORTHERN RAILWAY.

GYAN SINGH
ACOS/ETD/KANPUR.

D.O.No.GS/ACOS/ETD/CNB/II

Dated: Jan, 1981

Dear Shri Agarwal,

Sub: Explanation against CRPC. 31st. March, 1980
initiated by Sri V.K. Agarwal, Sr. DEE/NR/CNB.

A copy of the parawise explanation of every points of the CR which was written on 2.8.80 and communicated the same on 12.9.80 is enclosed herewith for your necessary action please.

with kind regards,

Yours sincerely,

Sd/-
(Gyan Singh)

Shri V.K. Agarwal,
Sr. DEE/RS/N.Rly./Kanpur.

DA/3 pages explanation report.

Copy to: (1) Shri S.C. Goel, Dy. COS/Amv.LKO. for information pl.

(2) Shri K.C. Tondon, Addl. COS/II, H.Qrs. office, Northern Railway Baroda House, New Delhi for information please.

(3) The Asstt. Secretary to General Manager/H.Qrs. Office, Northern Railway, Baroda House, New Delhi for his information & necessary action in the matter please.

G. S.

AGN ✓ 6/23
A/M

(Continued Annexure No.R-3, page No.2.)

Representation against the C.R.P.C. 31st March, 1980
which was initiated by Sr. DEE(RS)/CNB.

In reference to the remarks in the above C/R, which was initiated by you on 2.8.80 and the same was shown to me after a gap of more than one month i.e. on 12.9.80 I would like to make following points:-

1. Technical Ability.

It is very surprising to say that I am not bothered to know the Technical development of material management and do not apply technical skill in solving the problems of ETD/Kanpur regarding materials.

2. When I took over the charge of the post of ACOS/ETD/Kanpur on 29.5.79, to improved the working, I introduced the following procedures.

(a) Previously ledger Section was decentralised and it was under the control of W.K. This way there was no co-ordination among the ledger dealing clerks, ACOS & DSKPs. I grouped all the ledgers and made a centralized ledger section. This centralization gave a quick result and improved our procurement action.

(b) There was no PDR system and when the items become out of stock for some time. Neither the card was closed by the computer or the pattern of consumption of the material got changed, abruptly on receipt of the supply of item which disturbed the overall material position I initiated and started, keeping the PDRS just to keep a record of consumption of material of the period where it remains, either in short supply or out of stock.

G.L.

- (c) I introduced the coloured Bin cards system, with help of this system any visitor can easily find out, whether the material which is stocked in the Ward is of the nature of shop manufactured imported or indigenous.
- (d) Previously, all the Requisitions of Electric Loco Shed/Kanpur for low value non-stock item which are arranged through L.P. used to deliver to the L.P. Section directly, which had made the working of L.P. very un-systematic, I introduced a new system in which my DSKP started keeping a register to acknowledge all much requisition and to forward for appropriate procurement action i.e. L.P. Head Quarters procurement etc. Thus the working of L.P. Section improved like any thing and the complaints regarding L.P. reduced at a high rate and the clearance of work increased, to double.

How the officer has acquitted him in the management of his Tech. Work. Office and staff.

It is incorrect to say that the affairs in the Stores depot have been made a mess. Before writing anything in this context, I would like to draw your kind attention, towards the reply to your confdl. letter No.230-Elec./TRS/CRS/9 dated 17.7.80, which was required by you to initiate my C.R.P.C. 31.3.80 in which I clearly gave the complete working report. This reply is self explanatory and reveals how the Depot working was systematised by me.

G!

A-84 6/25
K/80

(Continued Annexure R-3, page no.4)

So far as I remember, I have never been guided by you either verbally or in writing at any stage. This was because material procurement action was running very smoothly and I was not receiving even a single complaint and no locos was detained during my stay as ACOS/ETD/Kanpur in Elec. Loco Shed/Kanpur, on account of non-supply of material.

In addition, the scheduled and un-scheduled Inspection and AOH/IOH has increased over the years as shown in Annexure I. Even the Loco holding increased during this period and the materials availability for these increased work load was also ensured & no instance was ever allowed to arise where the material availability could ~~had~~ hold up a repair, Inspection.

APTITUDS DISPLAYED FOR ANY SPECIAL TYPE OF WORK.

As I believe in the systematic working, I introduced a few procedures, which have been enumerated in Para I of this letter. This clearly indicates, my aptitude for a regular/efficient stores working.

The comments regarding my maturity and behaviour are not correct as no instance was ever brought to my notice regarding these and I ~~was~~ never ~~and~~ guided to improve upon any of these. The guidance to improve upon the short-comings, if any is expected from a Senior.

His test & ability to deal with labour.

During my stay as ACOS/ETD/Kanpur since 29.5.79, I have not come across with any labour problem. Any ~~material~~ material handling problem does not take place of on

Gh

AC 5
6/26
8/8

account of non-cooperation of labour. The Staff which has been deputed to take the work from labour never had any complaint. So it is clear that there is not labour trouble and it is incorrect to say that the staff under me have a tendency to avoid the work. Due to my efforts, I never allowed detention of any loco on account of materials.

Brief comments on his relationship with his colleagues Officers above and below him and those others with whom he comes in contact.

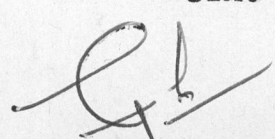
I have got very good and cordial relations with colleagues officers above and below and the staff under me. It is incorrect to say that I failed to keep good relations with other stores Accounts Officers whenever I meet such officers, I don't find any difficulties in solving the problems, with help of these officers. Frequently I am meeting stores Officers & Accounts Officers and having sound relations with them.

ANY SPECIAL COMMENTS ON HIS TRAITS OF CHARACTERS HIS GENERAL CONDUCT AND BEHAVIOUR.

It is incorrect to say that I make other persons irritated due to my non-cooperation and bad work. I have never come across any situation in which I made any excuse, if the work is not done.

3. Any adverse remarks including penalties imposed or warnings displeasures communication.

So far I remember hardly I have come across a single instance that I had under excuse instead of doing any work. Whenever I was asked to do any work I tried my



best and gave some output some times I came out from the regular procedure of Stores wherever urgency and necessity was observed. It is very incorrect to say that my behaviour is childish & immature.

It is really very surprising that I was never told any thing had or about unsatisfactory working from the period you resumed your duties to 31.3.80 either verbally or in writing which clearly shown by ~~xxx~~ satisfactory working but suddenly after 2.8.80 (immediately after writing my CR) two Confdl. letters No. 230-Elec/TRS/Conf./18/1277 dt. 1.8.80 and other letter No.230-Elec/TRS/Conf.18/1278 dated 11.9.80 were issued and moreover the earlier was delivered to me after about one month i.e. 11.9.80. Since these letters were issued after 31.3.80, it should not have been ~~ind~~ included in this CR which in including the P.C. March, 80.

It seems that these letters had been issued intensionally to damage my carrier. Though reply of your both the Conf. letter have been made by me vide my Conf. letters Nos. GS/ACOS/ETD/CNB. II dt. 15.9.80 and letter No. GS/ACOS/ETD/CNB/II dated 1.10.80. I am sorry to state that no further remarks against these letters have been received by me which means my explanations regarding these letters were correct and you have accepted.

If you felt my working was not satisfactory, from 29.5.79 to 31.3.80, you could have personally guided and instructed either verbally or in writing so that I must have impressed my working but you did not even once tell me and appreciated my working but

Gh

487 6/2/80

(Continued Annexure R-3, page No.7)

suddenly at the time of initiating my C.R.P.C. 31st March, 1980 I was issued Confdl. letters.

As far as Dy.COS(G) H.Qrs. office Northern Railway Baroda House, New Delhi's Inspection reports of 14.12.79 is concerned, I improved and followed his instructions very seriously which can be verified by the next Inspection of Shri N.K.Sharma Dy. COS/II/H.Qrs. who inspected this depot on 8.8.80. Again I request you to kindly go through the explanations which I have submitted to you in regards to your both the Confdl. letters dated 1.8.80 and 11.9.80 before passing any remarks to concerned authorities.

Sd/-

(GYAN SINGH)
ACOS/ETD/Kanpur.

(CONTINUED ANNEXURE NO.R-3, page No.8)

ANNEXURE -I.

No. of locos
carried out.
1978 1979 1980

No. of AOH
carried out.
1978 1979 1980

No. of ICH.
carried out.
1978 1979 1980

No. of RCR.
carried out.
1978 1979 1980

NOTE.
failure attended.
1978 1979 1980

Jan.	91	89	104.	3	3	6	2	3	2	4	3	14
Feb.	87	88	104	4	6	5	14	1	1	2	5	15
March	89	95	106	5	5	5	1	1	2	2	6	14
April	84	99	101	4	3	5	1	2	2	2	5	8
May	84	97	108	4	3	6	-	1	2	2	12	21
June	81	102	92	4	3	7	1	2	2	1	12	13
July	84	93	100	-	5	8	1	2	2	2	16	9
August	82	95	99	4	5	8	2	1	2	7	11	5
Sept.	78	84	94	5	5	4	1	2	4	6	18	8
Oct.	82	81	87	5	3	4	2	1	5	2	16	4
Nov.	88	97	96	5	3	5	1	2	2	7	12	5
Dec.	86	88	97	5	5	6	2	2	2	7	12	6

Total 1016 1106 1188 48 51 69 16 21 28 44 128 122

Rs/- Sd/-
ACOS/ETD/CNB.

788
6
29
A
28

189 6/30

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD.

(LUCKNOW BENCH) LUCKNOW.

WRIT PETITION NO.. 655/ 1983

Gyan Singh

... Petitioner.

Versus

Union of India and another ... Opp. Parties.

ANNEXURE NO.R-4

Northern Railway

Confidential.

No.ACOS/I/Personal/83

Dated:- 5.7.83.

Sri Ganesh Dayal,
Asstt. Secy (Confidential),
N.Rly, Baroda House,
New Delhi.

Through Dy. COS/AMV-LKO

Sub:- Adverse remarks of Section I of C.R
(period ending 31.3.80) of Sri Gyan
Singh, ACOS/ETD/Kanpur.

Ref:- 1) Your office letter No. E-106/3041(A)
dt. 16.6.83.

2) Letter No.E-106/3041 dt. 16.6,83
received through Dy.COS/AMV-LKO.

...

The undersigned has received your both the
above noted letters on 20.6.83 through Dy. COS/AMV/
LKO.

G!

In reference to your letter No.E-106/3041(A) dt. 16.6.83, I would like to mention the following points for reconsideration of my explanation which was submitted against C.R. period ending 31.3.80 Section I was initiated by Sri V.K.Agrawal, Sr. DEE/RS/Kanpur: =

1. I joined the Railways on 29.11.77 as IRSS and I was given the charge of Asstt. Controller of Stores/Electric Traction Depot/Kanpur on 29.5.79 after curtailing of my Probationary training period which was to be completed on 29.11.79. Thus at the time working post I was not having the knowledge of complete rules and regulations of establishment otherwise I could have submitted the representation against the adverse remarks of my C.R. period ending 31st March/1980 in time.
2. After taking the charge of ACOS/ETD/Kanpur on 29.5.79 no proper guidance was given by Sr. DEE/RS/Kanpur (under whom I was working) verbally or in writing in regards to day today working as well as establishment rules and procedures.

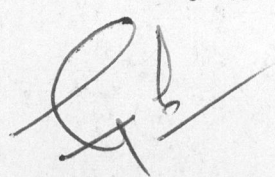
In the beginning Sri Y.Singh was the Sr. DEE/RS/CNB and from November/79, Sri V.K.Agrawal took over the charge of Sr. DEE. Thus I have worked net for 4 months in the year 1979-80 under Sri V.K.Agarwal, Sr. DEE upto 31.3.80.

Am
b
32
93

3-My C.R. for the period ending 31st March '80 should have been initiated in the month of April/80 or in May/80 vide Para 1606 & 1615 of Estt. Code Vol. I but when it was shown to me, I came to know that the C.R. was prepared on 2.8.80 by Sri V.K. Agarwal and the same was shown to me on 12.9.80 although there were departmental instructions that the same was required to be sent to higher authorities in the 2nd week of May/80. The reason for this delay is still not clear to me. Besides this, when the C.R. was shown to me 12.9.80, I was not told verbally or in writing that the representation if any against the adverse remarks is required to be submitted within 14 days only otherwise the representation will not be considered. Second time when the Sec. I of the next C.R. period ending 31.3.81 was shown to me it was clearly told through the C.A. that the representation against the adverse remarks was to be submitted within 14 days and I submitted my representation against the same C.R. on 4.9.81 on which suitable action has already been taken which was later on conveyed vide your office letter No.E-106/3041 dt. 16.6.83.

4.If the proper instructions had been issued either through CA to Sr. DEE/RS/CNB verbally or in writing when the C.R. period ending 31.3.80 was shown to me, I could have submitted my representation within 14 days after noting down adverse remarks.


I also remained on leave for full month in December/80 and after resuming my duties I submitted my

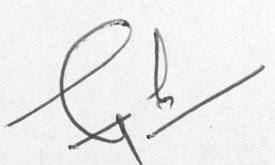


representation of the C.R. period ending 31.3.80 in January/80 through Sr. DEE/RS/CNB and later on it was received in your office on 19.3.81 which is clear from your letter No.E-106/3041(A) dt.16.6.83.

5-It is still not clear as to why the representation which was submitted in January/80 through Sr.DEE/RS/CNB-Sri V.K.Agrawal, was received in your office on 19.3.81 i.e. after a complete gap of more than 2 months.

6-If the section I of my C.R. period ending 31.3.81 and representation against the adverse remarks of this C.R. which were submitted on 4.9.81 are referred it becomes quite clear that both the C.Rs. of period ending 31.3.80 and period ending 31.3.81 have been initiated with the same mind and same opinion and my representation for C.R. period ending March/81 has been considered by the competent authorities who has decided later on to expunge the remarks. The adverse remarks pertaining to the C.R. period ending March/80 are also similar to those of period ending March/81 and therefore the representation against the adverse remarks of the C.R. period ending March/80 should also be considered in the proper perspective and expunged. I have already mentioned in the point No.4 that the delay has also taken from administration side which is the main delay so it is my request that my representation against the adverse remarks for the C.R. period ending 31.3.80 should now be ~~re~~ reconsidered.





7-It is fact that no proper orders have been passed by the competent authority regarding acceptance of the adverse remarks period ending 31.3.80 in absence of my representation which was submitted in Jan/91 even upto June/83 as it is clear from your letter No.E-106/3041(A) dt. 16.6.83 whereas my representation has been received in your office on 19.3.81.

8-So at the time of passing final orders on the adverse remarks pertaining to the period ending March 80 my representation was available and the natural justice requires that the same should have been ~~being~~ taken into consideration for finalising the adverse remarks from the contents of the letter No. E-106/3041(A) dated 16.6.83, it is evident that the adverse remarks pertaining to the C.R. period ending 31.3.80 was not considered by the competent authority earlier.

8.Thus on the basis of above facts, I am hereby requesting you to put up my case before the competent authority along with the representation against the adverse remarks of C.R. period ending March/80 which has been received in your office on 19.3.81 to take suitable action so that I may get the justice by expunging of the adverse remarks pertaining to the C.R. period ending 31.3.80.

Thanking you,

sd/- (Gyan Singh)
Asstt. Controller of Stores,
Alambagh, Lucknow.

HQA
6/35
X/ab

(Contd. Annexure R-4, page no.6)

Registered A.D.

Advance copy ~~of~~ to Asstt. Secretary (Confidential)/N.Rly, Hd. Qrs. Office, Baroda House, New Delhi. He is requested to put up the case to appropriate authorities for immediate action.

Sd/- (Gyan Singh)

Asstt. Controller of Stores/I,

Alambagh, Lucknow.

True copy



Aas 6/36

8/97

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD.
(LUCKNOW BENCH) LUCKNOW.

WRIT PETITION NO.. 655 of 1983

Gyan Singh

... Petitioner.

Versus

Union of India and another.

... Opp. Parties.

ANNEXURE NO. R-5

Confidential

No. ACOS/I/Personal/83

Dated:- 01.9.83

The General Manager,
N.Rly, Baroda House,
New Delhi.

Through Dy. COS/AMV/LKO.

Sub:- Adverse remarks of Section I of Confidential report (period ending 31.3.80) of Sri Gyan Singh, ACOS/ETD/Kanpur.

Ref:-1) Your office letter No. E-106/3041 (A) dt. 16.6.83.

2) Letter No. E-106/3041 dt. 16.6.83 received through Dy. COS/AMV-LKO.

3) Dy. COS/AMV/LKO's Confidential letter No. Conf/Genl./O dt. 26.7.83 whose copy is also enclosed herewith.

4) My earlier confidential letter of even no. dated 29.7.83 sent through Dy. COS/AMV/LKO.

...

In reference to the above correspondence, I am again drawing your kind attention on the above noted subject and again requesting you to consider my explanation of even no. dated 5.7.83 which was earlier

A96 6
37

(Contd. Annexure No.R-5, Page No.2)

sent to Sri Ganesh Dayal, Asstt. Secy(Confidential)/
N.Rly, Baroda House, New Delhi and the same was ret-
urned to me vide Dy.COS/AMV/LKO confidential letter
No.Conf./Genl/O dt. 26.7.83 stating that the same
is to be sent directly to the competent authority
and in my case the competent authority is G.M./N.Rly.

Kindly consider the explanation dated 5.7.83
which has been submitted against the adverse remarks
of Section I of Confidential report period ending
31.3.80 during which I was working as ASOS/ETD/Kanpur
at Electric Loco shed/Kanpur.

Thanking your.

Sd/. Gyan Singh,
Asstt. Controller of Stores/I
Alambagh, Lucknow.

Regd.A.D.

Advance copy forwarded to the General Manager/
N.Rly, Baroda House, New Delhi.

Sd/- Gyan Singh,
Asstt. Controller of Stores/I
Alambagh, Lucknow.

True copy .

A97 6
31

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD.

(LUCKNOW BENCH) LUCKNOW. X/99

WRIT PETITION NO. 655 of 1983.

Gayam Singh

... Petitioner

Versus

Union of India and another

... Opp. Parties.

ANNEXURE NO. R-6

NORTHERN RAILWAY

GENERAL MANAGER'S OFFICE
NORTHERN RAILWAY
BARODA HOUSE
NEW DELHI.

CONFIDENTIAL.

No. E-106/3041

Dated: 24th November, 1983.

Sri Gyan Singh,
Asstt. Controller of Stores,
Northern Railway,
Alambagh, Lucknow.

Through Dy. COS/AMV/LKO.

Sub- Confidential Report for the year ending
31.3.1980.

Ref- Your letter No. ACOS/I/Personal/83 dated
17th November, 1983.

....

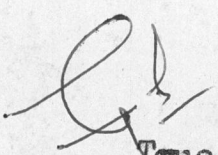
Your representation dated 5.7.1983 against
the adverse remarks contained in Section I of your
Confidential Report for the year ending 31.3.1980,
and noted by you on 13.9.1980 has been considered
by the competent authority and the same has been
filed.

...

Sd/- Ganesh Dayal,
24.11.83

Asstt. Secy (Confidential)

for General Manager.


True copy .

No 61948-5

A133

1

In the Hon'ble High Court of Judicature at
Allahabad Bench Lucknow.

4426(C)

A
100



Civil Misc. Appl No. of 1983

Inre
Writ Petition No. 655 of 1983

Gyan Singh

.....Petitioner

Versus

Union of India & another ...Respondents

APPLICATION FOR CONDONATION OF DELAY IN FILING
PROCESS.

The petitioner respectfully begs to state
as under :-

1. That the aforesaid writ petition was admitted on 22.1.1983 but due to oversight the steps could not be taken in time for service of notices on the respondents.

2. That the delay is bonafide and deserves to be condoned.

Prayer

Wherefore it is humbly prayed that the Hon'ble Court may be pleased to condoned the delay and the process, which is being filed today may be permitted to be taken for further action in the matter.

DS Chauhan

(D.S. Chaubey) Advocate.
Counsel for Petitioner

Enclosed

- ① No of envelopes containing Rs 4.05 fine only - Two for OPs 1 and 2.
 - ② Two copies of WP along with stay application.
 - ③ Notices for OPs 1 and 2.
- DS Chauhan
Advocate

Lucknow

Dated 12.4.1983

In the Hon'ble High Court of Judicature at Allahabad.

Lucknow Bench, Lucknow.

Misc Application No. 10701(u) of 1985. A/34

Gyan Singh.

Applicant.



In Re.

Writ Petition No. 655 of 1983.

Gyan Singh.

Applicant.

Versus.

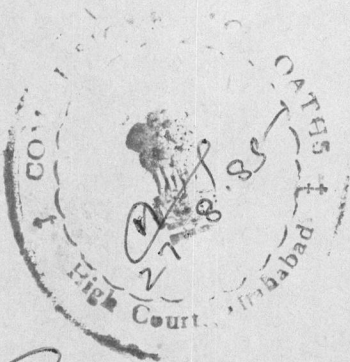
Union of India
and another.

Opp. Parties.

Application for interim relief.

The applicant, who is petitioner in the above writ petition, respectfully submits as under:-

1. That the applicant filed the above writ petition challenging the validity of with-holding of his promotion to senior ~~xx~~ scale of Class-I due on 20-3-1982.
2. That as brought out in the writ petition as well as in the rejoinder affidavit, the applicant has a



A-135/82 ✓

legal and fundamental right to get promotion to senior scale of Class-I with effect from 20-3-1982 in preference to his juniors but the same was denied on extraneous considerations and after taking cognizance of irrelevant and improper material. A/102 ✓

3. That had the petitioner been given senior scale of Class-I ~~from~~ with effect from 20-3-1982 he would also have been given promotion to the junior administrative grade some time in the year 1984. It is, therefore, evident that if the applicant is not given some immediate relief and is not promoted to the senior scale of Class-I without further loss of time, he will suffer irreparable and substantial injury in the matter of further advancement in the department and the loss, thus caused, cannot be compensated in any manner, whatsoever in future.

4. That it is expedient in the interest of justice that the case of applicant for promotion to senior scale is considered and he is given promotion before making further promotions.

P R A Y E R

Wherefore, it is humbly prayed that this Hon'ble Court may be graciously pleased to restrain



Handwritten signature or initials at the bottom left corner.

A 136 8/3

the opposite parties from making any further promotion unless the case of applicant for promotion to senior ^A/₁₀₃ scale of Class-I due on 20-3-1982 is considered on the basis of proper and relevant material as existing on 20-3-1982 or from subsequent dates of promotion of juniors and he is given promotion to the senior scale of Class-I in the first vacancy.

Lucknow: Dated:

August 27, 1985.

DSChaube

(D.S. Chaube)

Advocate.

Counsel for Petitioner.

A137 8
u

In the Hon'ble High Court of Judicature at Allahabad.

Lucknow Bench, Lucknow.

Misc. Application No. _____ of 1985.

A/104

Gyan Singh.

Applicant.



In Re.

Writ Petition No.655 of 1983.

1985
AFFIDAVIT
65/1045
HIGH COURT
ALLAHABAD



Gyan Singh.

Petitioner.

Versus.

Union of India
and another.

Opp. Parties.

A F F I D A V I T

I, Gyan Singh, aged about 31 years, Son
of Shri Durjan Singh, Assistant Controller of Stores,
Northern Railway, working at Alambagh General Stores
Department, Lucknow do hereby solemnly affirm and state
on oath as under:-



1.

That the deponent is the petitioner in
the above noted writ petition and is well conversant
with the facts of the case.

[Handwritten signature]

A138

4/5

A/105

2. That the contents of paras 1 to 4 of the accompanying application are true to my personal knowledge.

Lucknow: Dated:

August 27, 1985.



Deponent.

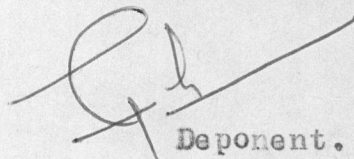
VERIFICATION

I, the above named deponent, do hereby verify that the contents of paras 1 to 2 of this affidavit which have been read and explained to me are true to my personal knowledge. No part of it is false and nothing material has been concealed. So help me God.

Signed and verified this 27th day of August, 1985 at Lucknow.

Lucknow: Dated:

August 27, 1985.

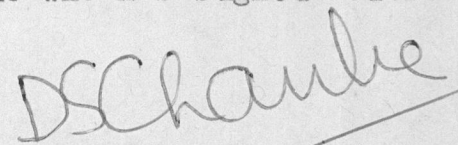


Deponent.

I identify the deponent who has signed before me.

Lko. Dated:

Aug. 27, 1985.



(D. S. Chaube)
Advocate.

Counsel for Petitioner.



A 13⁹ / 8² / 6

Solemnly affirmed before me on 27.8.85^A
at 8.00 a.m./p.m. by Shri Gyan Singh, the deponent, ¹⁰⁶
who is identified by Shri D.S. Chaube, Advocate, High
Court of Allahabad, Lucknow Bench, Lucknow.



I have certified myself by examining the
deponent that he understood the contents of this
affidavit which has been read and explained by me.

Meena Pandey
OATH COMMISSIONER
High Court, Lucknow Bench,
LUCKNOW
No. 65/10.1.5
Date 27.8.85

In the Hon'ble High Court of Judicature at Allahabad.

Lucknow Bench, Lucknow.

Misc. Application No. _____ of 1985.

A 143
A
107

Gyan Singh.

Applicant.

In Re.

Writ Petition No. 655 of 1983.

Gyan Singh.

Application.

Versus.

Union of India
and another.

Opp. Parties.

Application for interim relief.

The applicant, who is petitioner in the above writ petition, respectfully submits as under:-

1. That the applicant filed the above writ petition challenging the validity of with-holding of his promotion to senior grade scale of Class-I due on 20-3-1982.
2. That as brought out in the writ petition as well as in the rejoinder affidavit, the applicant has a

A 149

legal and fundamental right to get promotion to senior scale of Class-I with effect from 20-3-1982 in preference to his juniors but the same was denied on extraneous considerations and after taking cognizance of irrelevant and improper material. A 108

3. That had the petitioner been given senior scale of Class-I ~~xxx~~ with effect from 20-3-1982 he would also have been given promotion to the junior administrative grade some time in the year 1984. It is, therefore, evident that if the applicant is not given some immediate relief and is not promoted to the senior scale of Class-I without further loss of time, he will suffer irreparable and substantial injury in the matter of further advancement in the department and the loss, thus caused, cannot be compensated in any manner, whatsoever in future.

4. That it is expedient in the interest of justice that the case of applicant for promotion to senior scale is considered and he is given promotion before making further promotions.

P R A Y E R

Wherefore, it is humbly prayed that this Hon'ble Court may be graciously pleased to restrain

A145

the opposite parties from making any further promotion unless the case of applicant for promotion to senior scale of Class-I due on 20-3-1982 is considered on the basis of proper and relevant material as existing on 20-3-1982 or from subsequent dates of promotion of juniors and he is given promotion to the senior scale of Class-I in the first vacancy. A
109

Lucknow: Dated:

August 27, 1985.

(D.S. Chaube)
Advocate.
Counsel for Petitioner.

In the Hon'ble High Court of Judicature at Allahabad.

Lucknow Bench, Lucknow.

Misc. Application No. _____ of 1985.

Gyan Singh.

Applicant.

In Re.

Writ Petition No.655 of 1983.

Gyan Singh.

Petitioner.

Versus.

Union of India
and another.

Opp. Parties.

A F F I D A V I T

I, Gyan Singh, aged about 31 years, Son of Shri Durjan Singh, Assistant Controller of Stores, Northern Railway, working at Alambagh General Stores Department, Lucknow do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the petitioner in the above noted writ petition and is well conversant with the facts of the case.

H 147
A
111

2. That the contents of paras 1 to 4 of the accompanying application are true to my personal knowledge.

Lucknow: Dated:

August 27, 1985.

Deponent.

VERIFICATION

I, the above named deponent, do hereby verify that the contents of paras 1 to 2 of this affidavit which have been read and explained to me are true to my personal knowledge. No part of it is false and nothing material has been concealed. So help me God.

Signed and verified this 27th day of August, 1985 at Lucknow.

Lucknow: Dated:

August 27, 1985.

Deponent.

I identify the deponent who has signed before me.

Lko. Dated:

Aug. 27, 1985.

(D. S. Chaube)
Advocate,
Counsel for Petitioner.

A 148
A
112

Solemnly affirmed before me on
15 a.m./p.m. by Shri Gyan Singh, the deponent,
who is identified by Shri D.S. Chaube, Advocate, High
Court of Allahabad, Lucknow Bench, Lucknow.

I have certified myself by examining the
deponent that he understood the contents of this
affidavit which has been read and explained by me.